THE UPAS TREE

ROBERT McMURDY

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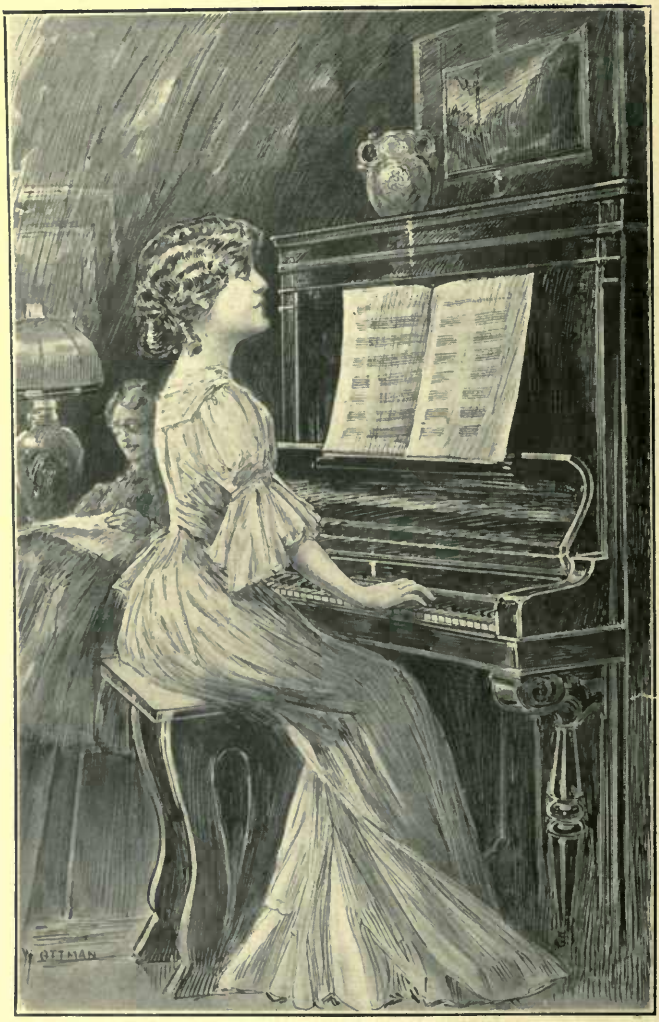
Mr Evart E. Hoyer

from

Boston H. Wood

Christmas 1913

THE UPAS TREE



"Ah, I have sighed to rest me."

THE UPAS TREE

BY

ROBERT McMURDY

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THE UPAS TREE

To
Her

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PREFACE

THE apocryphal upas tree, planted by Mahomet as a punishment for sin, visited with the blight of death every creature that remained within its shadow. It was solitary—a forbidding sentinel in a barren, burnt-up waste. The juice, providing poison for implements of war, and used in executing the death penalty, was gathered by criminals. They approached with the wind. If they returned, they were pardoned; but nine out of ten, benumbed by the tree's malignant vapor, were seized with spasms and fell dead. It was the tree of sorrows, watered only by the tears of men.

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The Upas Tree

CHAPTER I

Youth

This fair orphan ward
Seem'd the sole human creature that lived in the heart
Of that stern, rigid man. —*Robert Bulwer Lytton.*

IT was the last day of the high-school baseball season, and the nine were feasting at the home of Beckwith Miller. Goodfellowship was rampant—the natural, disinterested, ebullient, ringing comradeship of youth. Some years before, when Beckwith was on the team, these dinners had been inaugurated by his father. The custom then established still obtained: each boy stood upon his feet and forced himself into a semblance of public speaking. Good, indifferent or poor—no matter what was the quality of the utterance, the room resounded with approval.

"Hurrah! Hurrah!" "Good for Billy!" "A home-run, by thunder!" "Give him the pennant!" "Our own Neddie!" "Crown him!" "He's the whole nine!" "You're a brick!" Such was the rollicking comment.

"Now, Beck, the valedictory—come, fellows, the game's called!" And Beckwith rose.

His mother led into the room a neighbor, Dr. Wagner, and his daughter.

"Three cheers for Alice!" The boys rent the air again. "Tiger!" yelled one, and they gave a great yell and then settled down.

"Well, boys, I will be brief—as usual. I want to add to your vocabulary and give you a chance to add to your manhood. I want you to learn the meaning of resiliency—the ability to recover—rebound—from a fall or strain. It's all right to nurse an injured finger, but you must get back into the game. It's no discredit to be knocked down; but not to get right up again is shameful. You may be forgiven if you fail, but never if you do not try again. Now you've heard—will you heed?"

"We will," yelled all the boys together, and they beat their hands until Alice, laughing, held her ears.

"A gem!" exclaimed Dr. Wagner as he grasped Beckwith's hand. His admiration had already been won. On an earlier occasion, at the high-school graduation exercises, Beckwith had delivered an oration on the public school system—"The American Crucible" was the title—which had charmed the audience and

had put the name of "Beck" Miller in the mouths of the entire neighborhood. This cherished triumph had not turned the young man's head, but had been no small factor in determining his choice of the law as a profession.

The feast was over, and the company gathered about Alice at the piano—an instrument left over from the early days of Mrs. Miller, but which still had music in its soul. "Nut Brown Maid" they sang as Alice blushed and the boys made merry, their arms interlaced, with the abandon of the young. "John Brown's Body," "We Won't Go Home 'til Morning," and all the rest of that family of songs came in due order, and then a boisterous contention for the honor of walking home with Alice.

A second later they seated Mrs. Miller, formed a ring around her, placed on her head a wreath and hailed her as the diamond queen, the significance of which Beckwith explained to her.

When the party broke up the young men kissed Mrs. Miller goodbye. At the gate they serenaded, gave another three cheers for "Beck," and off they went with Alice and her father, chattering, volatile and happy.

"Those are great boys, mother."

"And that is a great girl, Beckwith!"

The mother's remark apparently passed over his head. He took on an air of gratification.

"What do you think—the Doctor has just laid a little plan before me. After his wife's death he fell to philosophizing and analyzing—got to dwelling on the needs of the masses—and he has organized the Public Bath Institute, to provide free baths for the poor and drinking-fountains for the public. He asked me tonight to become a member of the board of directors. I'll be duly advertised as counsel, and it will lead to other things. In fact, I think in time I'll be the Doctor's personal attorney—and I'll have his influence, too."

Mrs. Miller was silent.

"You think it is wrong to capitalize charity, mother! Our rector says the highest occupation is doing good and earning a living at the same time—because it fits *him*—but that will be *my* situation in the Bath Institute.—You are not convinced! Well, dear mother, if father had left us something more than this home, or if I had not chosen the starving profession, or if I had not relied too confidently on my popularity and too soon assumed the burdens of

a law office in a great city like New York, or if my practice were not among such poor people, or if the torment of my creditors were not in truth brought home to you, or—we'll cut the list off here—it might be different. Besides, it's a good work and appeals to me. The motives of the best of us are mixed, no matter what we do."

"I suppose this connection is proper enough, my son, but I hope a dollar viewpoint is not springing up in you—it is so corroding."

"And debts undermine—but there is no real room for such thoughts in this matter—mother, do you want me to marry Alice?"

"Why, Beckwith, you shouldn't ask me such a question. If I did I wouldn't say so. Everybody is headstrong in such affairs, and you are in everything, dear boy."

"Which means that you would! She's not long out of her teens—I'm nearly thirty."

"A proper difference," interjected Mrs. Miller.

"I vow! You're really in earnest. Come now—she has always been a pet of yours—you feel that she would fit in here and we could all live together—and 'her dad has the rocks,' as those boys would say—considerations of convenience—and a dollar

viewpoint! You'll break your boy's heart!" An explosive laugh escaped him, as he put his hands affectionately on his mother's head.

"It's no use for me to argue with you—you make black white——"

"And 'the worse appear the better reason,' I suppose. Well, to bed! to bed. It's late—for us!"

Conferences regarding a common interest drew Beckwith not infrequently to Dr. Wagner's home, where Alice always met him with a warm welcome. Once she gave him, with becoming grace, a bouquet picked by her own hand, in her own small garden, and touched a tender chord when she gently reminded him that the flowers were for his mother, adding artfully that she would trust him to deliver them faithfully. On his next visit he bore a beautiful gift-book as a remembrance from his household, and Alice agreed to keep and treasure the mother's part of the present, but would not promise as to his.

The season's first snow had fallen, and mother and son were seated at their dinner table.

"I've some good news," exclaimed Beckwith. "When I became connected with the Bath Institute I

fell into intimate relations with Emanuel Hodgkin, one of the directors. Very shortly he commenced to show symptoms of becoming a client, and a few weeks ago he gave me a little business—to try me out, I imagine. Anyway, I put my best foot forward and was successful. Now—today—he has given me all his legal work, and it means a good deal."

"That's fine, Beckwith. Will it put an end to our struggles?"

"Yes and no! It will end *your* troubles on *my* account, though, I hope. It is encouraging at this time; for, unless Dr. Wagner's health improves, I may not have his help and influence a great while longer."

"Who is this Mr. Hodgkin? I never heard you speak of him before."

"Rather interesting. You would call him a recluse. He is well-to-do; at least he does nothing but look after his property—made his money in New Orleans as a banker—a large part, no doubt, the difference between discount and interest, which, they say, made New England rich. When the Civil War broke out—thirteen years ago—he moved to New York, and here he has doubled his fortune. Canny—very canny!—and 'near'; but he has my hobby——"

"A fisherman?"

"Yes—and he has another hobby; but I'm not so sure I'll adopt that. We would neither of us worry over debts a moment longer if I should—it's the only being in whom he has any real interest—a former ward—an orphan—his niece."

CHAPTER II

Madness

. . . like the bat of Indian brakes,
Her pinions fan the wound she makes,
And, soothing thus the dreamer's pain,
She drinks his life-blood from the vein.

—*Scott.*

BERTHA HODGKIN'S mother had died when she was very young, and her father a few years later. Her own patrimony exhausted, her indulgent uncle furnished every luxury, providing her when she was not abroad with the best suite in the little hotel where he lived. She was no exception to the proverbial rule respecting an only child.

Beckwith could not refuse to meet this favored niece, but he realized that he must be cautious, for a misstep might lose his only indispensable client. On the other hand his material prospects seemed rosy if the affair should end at the altar. It was a new venture for him. He knew little of woman's world—had spent his life with boys and men—and was embarrassed in the company of women. More than

one mother had distrusted him because he would not look her in the eye. The niece was a year younger than he, but greatly his senior in experience—enough so that she made him feel perfectly at ease from the very first moment. She knew her uncle's belief in his lawyer's future and was anxious to please her benefactor.

With customary care Beckwith analyzed her. Slightly above medium height, an erect carriage made her seem tall. Black hair, eyebrows and eyelashes, a heavy forehead, large, square jaw, swinging gait and quick movements betokened, and her air bespoke, a dauntless and willful woman. Moreover, a southern warmth and an undeniable charm almost carried Beckwith off his feet.

An instant and gripping impulse laid hold of him, and for the first time he was in the power of a woman.

He had read, and he had learned in his office; but now he *felt*, and it was very different. Was it her way with all? Or just with him? It might be the snare of a woman with a motive! Or a real interest! He could not tell, and he had no present hope of finding out, for Bertha Hodgkin seemed more of an actress than women usually are. He was sure on one point: he would rather have her for a colleague than

an antagonist, and the amount at stake and the care required made him more of an actor than lawyers generally get to be. In short, he had to abandon ordinary companionship and play a game—a game with a double handicap: lack of experience and the spell of a dominating personality. But Beckwith knew that time would settle the problem and that time was the only thing that would safely settle it. If he could keep the game in progress he had a good chance to win, and he said to himself sententiously: "A lawyer ought to be a master of delay."

Beckwith had not counted on a thousand enticing devices and puzzling whims which interrupted him by day and disturbed him by night. His program of delay was not working out. When he said "Good night" he could not withdraw his hand—Miss Hodgkin was not holding it, that was certain—and the warmth of the touch entered his veins. When he did succeed he was ill at ease.

"I will get the book and bring it to you——"

"Soon?" she interrupted. A look in her eyes sent the blood coursing through him. His plans—his philosophy—went to the winds.

"Tomorrow?" he asked.

"Yes—yes—come!"

Out into the winter night he went, his hat on the back of his head. His cheeks were hot. He raised his hands to his forehead to relieve the pressure. His thoughts ran on wildly: "To go back so soon under all the circumstances might be interpreted by her uncle as a confession—and I am not sure of anything yet beyond this spell and the loss of my own will. If Hodgkin should believe me serious, could I then abandon her and still keep him for a client? What has become of my caution—my resolutions! I'll make an excuse—I'll tell her I'm sick—I'll go out of the city and telegraph her. But can I lie to her? She'll divine it and discard me; she'll poison his mind, and I'll lose him. If I postpone she may never feel again as she does tonight—God, what coloring she has when she's aroused! What spirit! I should have lingered! No—it was best—for me! And a good stroke—to hold her! Those lips—I'd give a thousand! If I go back tomorrow it's a certainty, and I'm in for good!—or bad!"

When Beckwith went into his home the conflict was still raging.

"Could I ask her here as my wife?" The idea jolted. "Could I hold that wild nature through the

years? Would she tire? Time—I must gain time! But it will be hard to play the game—maybe impossible—if I go tomorrow!"

The next morning Beckwith bought a little volume tastily bound in red. He clasped it tightly. "I will deliver it tonight," he said.

An hour later the door of his small private office opened quietly and a figure in new mourning entered. Alice Wagner delivered into his hands her father's will. He turned it to one side and read upon the margin:

Take to Beckwith Miller.

"I would have seen you before, Mr. Miller," said Alice, "but I did not feel equal to it."

She at once plunged into the details of the estate. During her constant companionship with her father he had posted her generally concerning his affairs, and she thought her patrimony sufficient to protect her from the necessity of supporting herself.

A slight glance of humor lighted Beckwith's gray eye. "You know what they say about lawyers!" he remarked. "They 'work hard, live well and die poor.' The same is true of doctors, I fear."

Alice's eyes rested on the small red object on the

desk. Beckwith was searching for some blank forms and carelessly covered it with a few of the numerous papers in front of him. He continued his search, and Alice looked through the open door. The office boy, a lad of eighteen, was busy at the copying-press. A client was impatiently waiting—a tall man, aldermanic in build, his complexion dark, his gray hair standing out from his head like bristles—a man conspicuous for neat attire and that peculiar air of freshness which marks the frequent bather.

CHAPTER III

Pluto or Plato

There be three things which are too wonderful for me, yea, four, which I know not: The way of an eagle in the air, the way of a serpent upon a rock, the way of a ship in the midst of the sea, and the way of a man with a maid.

—*Proverbs.*

THAT evening Beckwith went to his room earlier than usual. This caused his mother to reflect. It had been their custom, insisted on by her, not to mention at the table matters affecting the emotions. Her son had postponed any reference to his new client until after dinner. Perhaps this was an unconscious admission that his emotions were involved! And during the entire meal she had not once heard his hearty and contagious laugh!

While Beckwith was looking over some papers in his room he mused, reviewing with the flavor and fervor of youth every important event in his own life and every incident of the past that concerned Alice. In his ruminations he was set adrift now and then by a vision of her haunting eyes, witching in their human sympathy and artless allure.

He recalled with a smile that when she was a member of his Sunday-school class he had been charged by the other girls with "favoring" her. He lingered over the thought that whenever she was present some secret power impelled him to draw close to her. It was because she was an out-of-doors girl of buoyant spirits! Or it was because of the subdued and sincere sparkle of her conversation when diffidence was overcome! Or was she merely winning?—that lasting endowment! Yet her charm was not beyond analysis: she was wholly unaffected and genuine—woman's prime attraction in his mother's eyes—responsive but quiet, and simple in everything. She was blessed, too, with the soul of a natural musician, which told of her German ancestry. She was the object, therefore, of that affectionate interest which true men and women feel in those who are spontaneous, gentle and musical.

Beckwith had never before weighed her personality. But he had felt the color of health in his cheeks grow deeper with the satisfaction which her presence inspired, and now that she was practically alone in the world, seeking his services and advice, she was making a huge draft on his sympathies. But the other woman—the siren of oriental cast, with life's currents full—was pulling—tugging. It was the

contrast between the dreamless sleep of a child and the sleepless toss of infatuation. The niece was no "beautiful Bertha," but a witch of tragedy. She was no more free than he. While she expected to get her uncle's fortune at death she would be certain of it if she married to please him, and no one could be more to his liking than his confidential adviser. All this Beckwith was weighing—and he had learned enough to know that Dr. Wagner's estate was not promising.

He had almost surrendered, but it was clear that much was yet to be considered. If such a marriage should not last, the client and the hope of property might both be lost; and if it should last, it might not be very free. He was in a dilemma. He could not move slowly and dared not move fast. Some entertainment might relieve the situation! It would sidetrack a personal conversation and too close a reference to his failure to meet his last engagement.

"'The play's the thing!'" he said to himself, and an invitation went off the next day for any night that week.

The reply came promptly: Miss Hodgkin was not well enough, but would expect him to call the next evening.

"You feel at liberty to break your engagements with women as you choose?" inquired the niece before Beckwith was fairly seated.

"I have no rule—not enough experience to make a rule—but the occasion was imperative, as I wrote, and I took it for granted you would accept the statement. I would from you."

"Men are all alike—they assume to be masters. I will not overlook another slight. If you don't care enough to put me before all things I will put all things before you. Life is too short to trifle—I'm too strong in my feelings——"

"Be reasonable. A lawyer is very uncertain—he has times when he is ordered up, and——"

"No, Beckwith Miller—it was no lawyer's emergency that broke that engagement—it was another woman——"

"Now wait—wait—I'm not going to be cross-examined! I don't wish to hurt your feelings——"

"You can't!"

"I don't wish to, at all events. When you're impatient it makes me balk. Let us take each other at par and not rush too headlong. If we take our time——"

"I don't know what you are going to say, and

I don't care. If you expect me to dawdle along in our little affair you don't know me. It is touch and go——"

"Lightning does a lot of damage!"

"How dare you jest—I won't brook it! There! Forgive me! I'm impetuous—don't cross me! If you don't care at all, stay away—I'd rather know now——"

"But I do. Let me have time. I'm a novice among women. I only know enough to know that time is the only thing that makes no mistakes."

"Time is no friend of mine. I move fast—act quickly—regret never! And I expect those that come near me to do the same."

A knock at the door interrupted.

Mr. Hodgkin glanced at his niece and then at his lawyer. It was a quick movement of the eye and it escaped notice—perhaps he had entered at the wrong moment! Shortly he rose to go.

"Stay," said Beckwith. "Wait a little and I'll go with you. I must leave soon anyway—I'm due at home. Mother's alone."

The niece smiled, but tore her handkerchief.

"I've ended the affair altogether," said Beckwith to himself as he walked toward his home, "or I've

laid the foundation for delay—one or the other. How complex these women are!"

Beckwith's thoughts were now taken up with the affairs of his new client, but he was wholly uncomfortable if more than two days intervened between his visits with Bertha Hodgkin, to whom he felt drawn as by a great magnet. Yet in her presence he was ever maneuvering. There was a truce, but it was an armed truce.

He was resting on his arms when one morning the mail brought what appeared to be a letter enclosed in an innocent envelope. It was a brief message, unsigned, but full of portent:

Beware of the Oriental! She is appealing, but inconstant.

There was nothing to indicate its source.

Beckwith held it up to the light.

He brought to his desk the papers in the Wagner estate, pulled out a letter from Alice and studied the handwriting; rubbed both letters between his fingers, laid one over the other to compare the size of the sheets, and held that of his client up to the light.

He sank back in his chair, shocked and sad.

Alice, so it happened, was on her way to the office. As she entered she passed the man with the bristly hair.

"Mr. Miller, pardon me, but who is that man?" she inquired with hesitation.

"That is Mr. Hodgkin—one of the directors of the Public Bath Institute."

Alice was forcing her recollection.

"Lives at the Hotel Leopold?"

Beckwith nodded.

The way was opened—it might never be again! He bluffed. "He's the uncle of Bertha Hodgkin—of whom you know."

"Yes." Alice colored. "Oriental, I hear!"

Had she used the word by design? Suspected people sometimes adopt such a bold ruse, but it seemed unlike Alice. Still, women are paradoxes!—particularly in love affairs. She had been more than friendly in their new relation! It was a puzzle! He would assume an unusual manner and aid it by impressive silences. Mystery would be a formidable weapon—with a woman. Her embarrassment or talkativeness might uncover guilt.

But Alice made a hasty excuse and left quietly.

"I wish I understood women better," Beckwith muttered to himself. "She's guilty! I'll get a note from her admitting the thing. It's not such a serious offense—no crime! She's young! If guilty, she's

interested in me; there's no escape from that—and it's real—she *cares*—or she never would have done it. Another idol off the pedestal! I'll see 'the Oriental' tonight!"

A Miss Harris was in Miss Hodgkin's room when Beckwith called.

"I've heard of you—through Miss Wagner," she said when they were introduced.

Now he knew where Alice had learned of his attentions to Miss Hodgkin!

Beckwith did not hear from Alice the next day, but he called at the first opportunity, and without warning placed the waif letter in her hand.

The color rose in her cheeks.

Very deliberately he added the other letter, taken from his office files.

"That is your writing?" he inquired.

"Yes—certainly. It's nothing like the other."

"See here!"

He put the sheets together.

"The same size!"

Alice fitted one over the other and ran her fingers down the edges.

"The same texture!"

She felt of them carefully.

He held them both up to the light.

"The same watermark—the arrow-head!"

Her cheeks became crimson.

"Wait a moment," she exclaimed as she left the room. She returned with her hands full of writing-paper and envelopes.

"When did you get this stationery?" asked Beckwith.

"Holiday time, at Willoughby's."

They matched up the paper with the letters and examined the watermarks. They compared the envelopes with that of the anonymous letter. There was no doubt.

"What have you to say?" asked Beckwith.

Alice buried her face in her hands.

"Never mind," quieted Beckwith. "It's not such a serious thing."

"Oh, but it *is*, Mr. Miller! You're a lawyer and used to ferreting out these things. They may seem small to you, but I'm alone, and all I have is my character. Appearances are against me, but I didn't do it! Can't you help me? I'm willing to tell you all I know."

"Well, I'll help you if you wish—but it may turn out wrong. Let's get it out of the way—I don't want to believe unless I have to. Why did you leave the office in such a hurry?"

"I had no idea of this—believe me—I told you I had heard of your fancy for Miss Hodgkin, but you did not choose to confide and I could not inquire—that was all."

"Your informant was Miss Harris?"

"Yes," answered Alice, surprised.

"Have you and she been intimate?"

"Not at all—just acquaintances."

"Has she ever been at your home—or you in her rooms?"

"I have been there—once. She has never been here. We met casually—in music. Nothing more except that I agreed to lunch with her at the Leopold."

"Did you?"

"No; I wrote, postponing indefinitely—I intended to go, but I haven't as yet."

"Now, is there anything else I ought to know? Remember, I'm trying to help you."

Alice hesitated. "I suppose I will have to tell. I spoke to Miss Harris about my life-long acquaintance with you in such a way that she may have

believed I was interested—you mustn't think of that again—it was my humor of the moment—we have our little impulses—I was thinking of the consideration you have always extended to me and I may have——"

"I understand."

The next evening, in the parlor of Bertha Hodgkin, Beckwith took the unsigned letter from his pocket.

"Here's a love-letter—it will interest you—read it—with care."

"How did you come by *this?*" The tone indicated rising anger.

"The mail!"

"The female, rather. Someone's jealous! Some little coward! *'The Oriental'*—how flat! Do you suspect anyone?"

"No—I thought *you* might—have you no enemies?"

"This did not emanate from anyone connected with me—*you're* the cause—not *I*—it's the love of *you*, not hatred of *me*. Someone cares for you. Is there not——"

"None capable of writing that——"

"Be not so sure—be not so sure! You're a *novice*, remember, and the very one—so 'coy, steadfast and

demure'—is often capable of just such a low trick."

"Well, a novice among women may not be a novice in unraveling intrigue. Hold a bit!—how about Miss Harris?"

"Impossible!"

"Ask her to come in."

Miss Hodgkin was out of the room in an instant.

Beckwith stooped over a wide-mouthed waste-paper basket near the writing-desk. A half-finished and discarded note in Miss Hodgkin's handwriting was invitingly on top. He took it up quickly, studied the formation of the letters and gave his head a negative shake. He compared it with the other and held it to the light.

"I have seen Miss Wagner since I saw you," Beckwith said to Miss Harris when she came in with Miss Hodgkin. "She says you're a *musiker*, like her."

"Not like *her*, I regret—but I am a music-*lover*."

"Too bad you failed to get together the other day!"

"How so?"

"On your invitation to lunch—luncheon, I suppose you call it—here—three or four weeks ago—when she wrote you—you recall?"

"Not at all. Miss Wagner never wrote me a letter—that is, I never received any, I'm sure."

"When she broke the lunch engagement?"

"But we never had one, Mr. Miller."

"My blunder! my blunder! I misunderstood her, of course."

While Beckwith was trying to figure out the motive which had prompted Alice to tell him of the mythical engagement, conversation drifted to the subject of foods, when Miss Harris opened a door by mentioning a favorite receipt.

"Let me have it," he urged.

"I'll be back right away," she exclaimed, and was out of the room again.

Beckwith boldly held before Miss Hodgkin's eyes the note he had taken from the waste-basket.

"How did you come by that?" she said.

"Stole it," responded Beckwith calmly.

"Impudent!—you do exasperate me—what a fool! —to be picking up my letters—do you think I wrote that stupid note about myself?"

"Certainly *not!* But a lawyer on the scent gets after everything in sight. You can't tell what any little thing may lead to. Look at this—the paper's the same texture apparently, the sheets the same size —and it's the same watermark—see! How long have you had it?"

"A year ago last Christmas. A friend gave me a great box of it—here she comes—see about *her* paper while you're in the business—you're in a high calling—a detective!"

Miss Harris returned with her book of receipts, gave Beckwith a sheet of the hotel paper and asked him to write while she read.

He tried to exchange a furtive smile with Miss Hodgkin, but met a look of contempt.

As he folded his precious receipt, Miss Harris drew from her book a letter and asked him to mail it.

Nothing about this letter seemed suspicious, but he carried it with him to his home and in the morning delivered the four letters to Doctor Wells, a man who had mastered law as well as medicine and had laid both professions aside for the work of a handwriting expert. The Doctor was instructed not to disturb the unopened letter of Miss Harris, but to mail it at the first opportunity. The expert gave it as his opinion that neither of the two women at the Leopold had written the unsigned letter—it was Alice, if any of the three, and he was inclined to think her guilty, but would write again that night.

The next day, however, came the promised word—scribbled in pencil on the back of Alice's letter: "The

writer of this did not write the other—you can rely on it; but it might be hard to prove."

Another communication was on Beckwith's desk; it was from a paper manufacturer, and it read:

Referring to your interview with the writer, beg to confirm statement from careful examination of our books that the arrow-head, our exclusive watermark, was not in existence Christmas a year ago—not until the June following.

Bertha Hodgkin had lied!

"She's a deep one," was Beckwith's mental comment. "She got Alice's letter from Miss Harris and searched the market to duplicate the paper. I was to believe Alice guilty—that was the plan—and it nearly succeeded! And Miss Harris denied the letter from Alice to shield her friend! I'll confront 'the Oriental' with this letter from the manufacturer—she'll threaten revenge and mean it, but she'll never risk having her uncle know. I'll be rid of her—and keep my client, too! I did a good piece of work."

CHAPTER IV

A Little Mendicant

She had thought how his armor would blaze in the sun,
As he rode like a prince to claim his bride;
In the sweet, dim light of the falling night
She found him at her side. —*Ella Wheeler Wilcox.*

From the days when it was always summer in Eden, to those days when it is mostly winter in fallen latitudes, the world of a man has invariably gone one way—the way of the love of a woman. —*Dickens.*

THE Wagner estate required less and less attention. Matters had come to a standstill awaiting the result of a speculative investment to save which the Doctor had involved himself heavily, and worry over which had in fact hastened his death. Winter and spring went by, and summer was at hand before the venture was finally tested. Then it went to pieces with a crash.

Beckwith called that evening at the Wagner home and made a frank statement of the loss. Spreading out on the table a schedule of the property and debts of the estate, he ran over the items.

Alice studied the figures absentmindedly. A smile came to her lips.

"I'm a little mendicant!" she said bravely. "That's all there is of it. I'm glad poor father did not have to bear *this!* You may think it odd, Mr. Miller, that I treat the matter so lightly, but I'm not taken by surprise. Inexperienced as I am, I divined the true conditions and began my lessons in the hard school of economy some time ago."

"Alice, this is serious. What is to become of you?"

"It *is* serious, but I'm not discouraged. While I was worrying over the estate, I was planning; and I've made up my mind what to do. You know father's idea was that a girl should be capable of making her own way in the world; so my musical talent was cultivated. I've been studying lately with teaching in view. I believe I can earn my own living—and I *will!*"

"The struggle is hard—in a city," observed Beckwith, tapping his finger-tips with a pencil. "And you are not very strong."

"I'm equal to it. A stout heart is most of the battle. After I've studied a little more I can succeed. At least, I feel that way about it—don't you?"

Her great, inquiring, kindly brown eyes met those of her lawyer.

Caught off his guard, he turned his glance to the floor and took a moment to regain himself.

"No one could doubt your determination," he replied. "No one could doubt your devotion to a duty, nor your ability, nor your constancy. But one might be pardoned for questioning your strength—especially if he were *deeply* interested!"

Again she looked into his eyes. They were alive with a power that made her shrink. On a number of occasions there had entered her consciousness from his an elusive suggestion of tenderness that left her in doubt about his feelings and caused her to suspect her own. Now there could be no mistake: the attraction, whatever its extent, could not be denied—and it was mutual.

Their hands were clasped. Thrilled by her warm grasp, he was inspired to gentleness by its lack of vigor. She felt his crushing strength in the restraint of an iron grip. And each reveled in a mystery—the galvanic touch of a hand!

"You ought not to be pushed out into the world like this," he pleaded, his voice low and his utterance deliberate. "I can't think of it without sadness. A boarding-house—that's what it means! *You* could not live in such an environment—at least you would cease

to be *Alice*. I've been thinking it over. I have a home. I idolize you! You are the only woman I ever loved, and I want you to be my wife."

Tears were in those marvelous eyes, and he was aware of it. He placed his hand upon her shoulder and continued:

"Don't answer me at once. Let us say no more tonight, and I'll return tomorrow. Don't rise! Let me leave you as you are; let me think of you as I see you now."

Stooping, he kissed the rich brown hair and slipped away.

CHAPTER V

The Red Gate

Into the tranquil woods, where bluebirds and robins were building
Towns in the populous trees, with hanging gardens of verdure,
Peaceful, aerial cities of joy and affection and freedom.
—*Longfellow.*

THE manner of Beckwith's proposal was not accidental. He felt it would hardly be just to announce to Alice the melting away of her inheritance and then, while she was under the influence of disappointment, propose marriage in such a way as to demand an immediate answer. He knew that a sudden emotion sometimes unwills a woman, and he believed that Alice, if taken unawares, might commit herself; but he disdained such a breach of chivalry. He could not forget that he was her legal adviser, and, remembering the jealousy with which the law guards the client in a transaction with a lawyer, he was instinctively curbed. On the other hand, he had made up his mind to marry Alice if he could, and had merely postponed his purpose.

Much of his solicitude was unnecessary, for Alice had not been taken wholly unawares. She had, however, made no attempt to sound her heart, and after Beckwith's departure she remained by her lamp, dazed by the combination of events rather than perplexed by the words of her new-found lover.

The shutting of the front door aroused her. Why had she sat dreaming and allowed Beckwith to make such a cheerless exit? He must have mesmerized her! Until now she had been blessed with wise counsel—her father, and then her lawyer—but here was a situation about which she could consult neither one, and she must decide unaided the most important question of her life.

Beckwith certainly had been most delicately considerate in making his proposal as he did—she could never forget it! He was talented! And would become prominent! As she thought of him his picture rose before her. Not handsome, perhaps, but vital, tall, straight as an Indian. A lock of white just above the temple, set in his black hair, had ever been in her eyes a mark of distinction. He would be interesting always and would lead her on and up. Above all, his unusual devotion to his mother was a guaranty that he would love and cherish her also. But did she

love him? If she did not, why did time gallop so when they were together? She wandered to the hallway and stood before the picture of her father, yearning for advice and reflecting upon the confidence he had reposed in Beckwith, shown in so many ways and emphasized by the message written on the will.

Was not the finger of Fate pointing through all that had passed, directing her to the threshold of Beckwith's home?

She was grateful to him for the careful attention he had given to her affairs; his moderate bills; his recent avowal that he would make no further charge; his desire to honor every wish she had expressed. She was very grateful—and might be mistaking gratitude for affection! A grateful woman is often a foolish woman! The transition from gratitude to the thought of love is so natural and easy! Perhaps she was slipping from one to the other in response merely to a law of the emotions! In a mist of indecision she sat down at the piano, struck a few chords and drifted into Mendelssohn's *Spring Song*.

On more than one occasion she had seen an entire audience enraptured, enchanted, entranced by its fascinating and caressing melody. It fitted many moods, and she gave it expression to suit her own.

Thus it was ever disclosing new beauties—a perennial joy—and she had early conferred upon it the rank of soul music, granting it admission into the small class of her "immortals."

The song was finished in the quiet manner of its beginning, and she lost herself in the dreams of improvising.

Early the next morning came a note by messenger —from her future husband, if she so willed it—suggesting a drive.

At the appointed hour he appeared.

"I have a little present for you," he said, as they drove away.

Unwrapping the small box that he gave her, Alice raised it to her face.

" 'Oh, the faint, sweet smell of——' "

She was interrupted by a nod and knew that he was able to finish the quotation. The box contained a jasmine—emblem of amiability—befitting and gracing a wife.

"The innocent little thing!" she exclaimed.

"You told me several years ago that it was your favorite flower——"

"And you remembered it! It is not only my favorite, but I have a sentiment about it—a reverence

—that makes it almost an unfair gift—but you didn't know that; so I forgive you!"

Driving leisurely, they crossed the Harlem and followed for a few miles an unfamiliar but attractive country road. Alice was deeply impressed with the changing scenes which lavish Nature was unfolding. Her silent enjoyment was not interrupted, and when they again conversed they spoke only of commonplace things. Conversation was in the doldrums, but they understood that this was the result of meditations too subtle for expression.

Their road turned into a green vista leading from the beaten way up the side of a small and thickly wooded ravine. A large red gate blocked the approach, but a rope was suspended from the end of a long pole with which the gate was connected, and Beckwith saw that by pulling the rope the gate would roll well out of their way and by pulling another a few yards beyond he could cause it to swing back again, so that he could open and close it without alighting. This he did, and they passed on.

They drove up the hill. The horse breathed hard and claimed a rest, while Alice was glad to enjoy the rich coloring of the foliage which arched the roadway so luxuriantly that the sun's rays scarcely penetrated.

A tiny brook rippled at her feet. No voice, it seemed, could be sweeter than this brook; no roof more grateful than Summer's canopy of green.

She awoke from her reverie to find Beckwith gazing at her intently, his look determined, his manner grave.

"Alice," he said, "you are my only hope of happiness and you have not been out of my mind a moment since we parted last night!" Ardently he pressed her hand to his lips. "I mustn't hasten your decision! But if you can, *do* answer me *now*."

She had been thinking again gratefully of his consideration on the evening before, and this was still in her mind when she spoke:

"You have been so tender of me—last night—always! I'm ready and happy to give you my answer. I am wholly and truly yours, dearest! I love you, Beckwith, and I will be proud—very proud—to be your wife."

He raised her head and kissed her. At that moment Nature bestowed one of those strange favors reserved for the very purpose of enchanting the bewitched. A great beam of the setting sun stole through the trees and suffused the lovers with its roseate benediction. It served, also, as a warning

to Beckwith, flushed with triumph, that he must curtail the journey.

On their return they passed the spot where Alice had said the important words. There was the modest, gentle, endearing, musical brook! There were the joyous birds and their happy homes!

And further on, the red gate!

"Let *me* open it," Alice exclaimed. "Let us divide even."

He stopped under the rope. She pulled it with a jerk, and the gate rolled out of their way. As they reached the rope on the other side she pulled that, too, and the gate swung shut again.

"It has closed on my girlhood forever!" she exclaimed to herself. "It has shut out the thoughtless days of my youth. I am now on the real highway of life!"

She turned to Beckwith:

"I like that red gate. I trust it will bring a new life full of happiness. I mean to do my part. It requires some courage for a girl to settle a question involving all the rest of her life, but I've made up my mind, and it will never be changed."

They were at the pavilion. Away from the gay

Saturday throng, in a nook overlooking the tranquil river, bathed in the soft twilight, lulled by the fragrant summer air—at peace—they consecrated their new joy by breaking bread together.

When they drove on again, a spirit of banter and jest took possession of them, finally lapsing into play. Beckwith's laugh, which Alice loved to hear, rang out again, and careless glee marked the way home.

An awakened heart was surprising Beckwith with new sensations. While he walked upon the same pavement with his fellows, his step was so light that he seemed on another plane. All who bowed had an approving smile. Each pressure of a hand imparted a significant encouragement. In speaking in court he marveled at his own easy utterance; his vocabulary was enriched and his persuasiveness almost irresistible. Above all, he was astonished at the facility and grace with which he accomplished all that he did. And when he confessed these incidents to Alice she sat with wide-open eyes: in a smaller way she had duplicated every one! More and more they found themselves thinking the same thoughts at the same time, no matter what distance separated them. And there was a satisfaction

in the notion that Nature had made a departure from her immutable laws just to please them—for certainly it was all very strange!

The relinquishment of her girlhood gave Alice many a borrowed care. After the manner of her thoughts, she began to "put away childish things" and spent much time rummaging over her effects, preparing a great many for removal, and casting aside, sometimes with regret, a cherished valentine or bit of ribbon, a trinket which had seemed precious —now regarded as a trifle.

Over one little rosette she hesitated. She could not forget the giver, with his brown eyes and rosy, happy face, nor the playful mock innocence with which he hummed the tune but never sang the words of *Ben Bolt;* nor did she fail to remember the rhyme he wrote—"dancing eyes." She had never loved him; they had been friends only. "But real friends," she thought, "are not often made. I will keep this one wee fragment of the past."

Shortly she set the wedding day, determined by another event, the giving up of her home. It had been so much a part of her that the prospect was a genuine sorrow, even though the beloved piano was to be one of her companions in the new abode.

In the preparations for the wedding Alice had to determine many questions for herself. One she was glad to have the opportunity of deciding. As far back as she could recollect, marriage had been inseparably associated in her mind with the idea of home, and she had frequently expressed a preference for a home wedding. Her rector, in a fatherly way, assuming that marriage is a divine institution, argued that the church was the only proper place. Others also urged this view upon her, but she was firm in her decision, fortified as she was by the necessity for economy. Her taste and purse met on friendly terms, and the wedding was to be simple in the extreme.

The days passed rapidly, and at last a new name was entered in the great Book of Fate—*Mrs. Beckwith Miller.*

CHAPTER VI

NEWPORT

Where wealth accumulates and men decay.
—*Goldsmith.*

Life without industry is guilt.
—*Hubbard.*

Excess in apparel is another costly folly. The very trimming of the vain world would clothe all the naked one.
—*William Penn.*

He would have been a rash man who, when Augustus was changing the Rome of brick to the Rome of marble, when wealth was augmenting and magnificence increasing, when victorious legions were extending the frontier, when manners were becoming more refined, language more polished, and literature rising to higher splendors—he would have been a rash man who then would have said that Rome was entering her decline. Yet such was the case. —*Henry George.*

DURING the refreshment-hour at the wedding reception Alice overheard the rector's wife conversing with those seated nearest her.

"While Mr. Cassels," she said, "has been in charge of the parish for barely a year, this wedding is the thirteenth. Wedding fees go to the minister's wife, and I hope they'll keep it up."

Not long afterwards Alice bade goodbye to the few girl friends who had begged permission to go to the station for their final parting. With them she had always been a favorite. The first to marry, they were determined she should have a prolonged farewell. Her husband would take her into the companionship of older persons, and the old ties would be severed. They watched the receding train with deep feelings of regret. But they soon disappeared, all in one carriage, with the merry laugh of youth.

Over the door of the drawing-room, Alice's bridal chamber, she noted the number *13*. She remembered the remark of the rector's wife and the circumstance that her husband had proposed on Friday. She tried to brush these omens from her mind, but they would not wholly vanish.

When Beckwith had asked Alice where she wished to spend her honeymoon she had replied, "Follyville," and they were now at Newport. The big hotel and her new surroundings pleased her. The wild scenery along the coast, the shaded walks and drives, the palatial homes, the sea-bathing, afforded constant entertainment. She rambled down the famous cliff walk, stretching through some of the finest

grounds on the continent. With Beckwith as a guide she explored the old and historic part of the city, and exhausted the objects of interest in its environs. They saw the annual parade of the Newport Coaching Club with its pageantry, and many another ingenious invention of luxury.

Returning one day from a visit to the Old Stone Mill, Alice heard her husband and a stranger talking together as she passed in the hallway the open door of an adjoining room.

"The early settlers amassed large fortunes through commerce," the stranger was saying. "This was a great place for ships: the outgoing cargo, rum; the return freight, human beings—many chained upon their backs. It was once the great slave-market of the country, and, I remember well, a notorious patron of the open port at Charleston."

The voice had an unpleasant effect upon her. Who was the speaker? Evidently the conversation was not private, and she listened.

"Are the cottagers, any of them, the descendants of these early Newport families?" asked Beckwith.

"No—quite the contrary. I have often thought how ironical Fate has been, for the slave-traders' descendants treated with disdain their neighbors with

smaller purses, and they, in turn, were pained by the arrival of haughty new-comers who established themselves on a still higher plane by a much grander standard of daily expenditure. And it was no anodyne that the superior fortunes of the intruders were amassed or augmented by fraud."

"A by-product of civilization," Beckwith interposed.

"They don't get much out of it. They learn to spell *notoriety* with a big *n* and *love* with a little *l*. Their sons are colorless and their daughters, whose faces are mere collections of pretty features, marry titles, with the risks involved—physical as well as ethical."

"Caustic!" thought Alice, and she entered her room. When she came out again she ran into the talkers in the hallway.

"My wife, Mr. Hodgkin. You see, I have done more wisely than you!"

"We have seen each other before," exclaimed Mr. Hodgkin, while Alice wondered if he remembered the occasion when she had obviously avoided an introduction.

"Beckwith, dear," chided Alice in their room a few

moments later, "I hope you have no more friends like Mr. Hodgkin—so icy and out of plumb!"

"Before you get any further, little one, let me tell you: he is the most valuable client I have; so handle him tenderly!"

She mimicked a wry face. "You have the best of the argument, as usual! I cannot change my notion, though—not right off. I can't waive it, as you say, but I will do my best, dearest."

Alice observed critically the cottagers—"the flaunters," as the tradesmen covertly called them. They had good points, but they were given over to display and beset with those incivilities which spring from an arrogant heart. More particularly she noted a clique of women sometimes called "The Hurricane Club." They were undeniably accustomed to the flesh-pots of Egypt. Their countenances, vicious or vacuous, unlighted by devotion to any good cause or worthy creature, revealed characters either lurid or drab.

"I am interested—very much interested—in these Newport people," observed Beckwith. "What immense purses they have! What rich dressing and luxurious appointments! And we've but touched the surface! It's marvelous."

"Very true," replied Alice. "And by way of contrast I've been thinking of your mother—bless her dear heart! May she be spared many years!"

The wedding trip was drawing to its end. The waving handkerchiefs on the wharf grew fainter and fainter as bride and groom were seated on the steamer's deck.

The dash and swish of green and white, the dreamy line of trailing smoke, a sense of the boat's isolation, the feeling of loneliness which pervaded them as their separation from recent scenes became complete, induced a reflective mood not altogether cheerful.

The honeymoon was setting, and Alice, looking forward to the sunrise of responsibility, reviewed her Newport experiences, the display rising uppermost in her thoughts. There was no likelihood that she would herself have the means to indulge in elaborate folly, but the chance to lead a useless existence is open to all. Should she become a cottager in a miniature Follyville? On the other hand, could she be contented without any joys of fashion when others were accustomed to them in such profusion? She was conscious of the temptation involved in all she had seen, but these things were passing and hollow. And

if this luxuriousness produced results so melancholy, might not smaller indulgences beget misfortunes of less degree? So, whatever might be in store for her, of estate or position, she would be the modest, womanly wife; she would continue to be simple in expenditures and manners, and would never be useless. This determination became fixed; but not infrequently, as the months went by, she would check a wandering wish with the reminder: "My Newport resolution."

Closer observation of the idle rich produced in Beckwith a deep and permanent but different effect. He remembered that when he was condemning the extravagance they had witnessed, Alice had met his look with a wincing glance. It certainly did not mean that she approved of the lives or morals of these sybarites, but suggested some ungratified desire which she could not wholly put aside. Reasoning inductively, it could only be to indulge now and then in a few luxuries, and this was neither wicked nor weak. Assuredly his wife should have, and must have, every comfort; but there was not much in his past to foster the hope that she would ever have the delight of spending with an unrestrained hand. These Newport children of fortune were unworthy, but enjoyed perennially; she, for whom no reward was

too great, must skimp diurnally. It was unjust! It was not a question of affluence, but of ordinary happiness. What if he should die? What of old age? He must make money! He must make money! And the way was not open speedily and legitimately in the ordinary paths of the law. Here was a problem to be solved in some way. It was his problem, and he would work it out alone.

CHAPTER VII

Home, Sweet Home

The sweetest thing in life
Is the unclouded welcome of a wife.
—*N. P. Willis.*

The poorest man may in his cottage bid defiance to all the forces of the crown. It may be frail—its roof may shake—the wind may blow through it—the storm may enter—the rain may enter—but the King of England cannot enter!—all his force dares not cross the threshold of the ruined tenement.
—*Pitt.*

THE troublesome first year of married life had but half elapsed. The Miller household was harmonious save only for Beckwith's ambition that his wife should be more suitably environed, a desire which had taken form, against her wish, in remodeling the home.

He had early concluded to make changes in the basement, which was really a cellar. Two small windows lighted it sufficiently on sunny days, and these he decided to enlarge by cutting away the earth from the outside of the cellar-wall and constructing

light-spaces in front of them—"sepulchers" Alice called them.

Another improvement had been determined upon—carrying back the cellar under the rear of the house to give the owner some space for certain purposes of his own.

The changes included locks on the "sepulcher" windows and on the door leading from the rear of the cellar to the room in front, which was reserved for his personal and unmolested use—his den. It was to be consecrated to science, and in it were to be unearthed some of those secrets to be learned only by delving in silence. These discoveries would require years of labor, but would make their author celebrated. Meanwhile all must be veiled in secrecy, to heighten the effect, to prevent scrutiny which might rob the scientist of his glory or disturb his equilibrium, and to avoid the suggestion of a lack of balance, so often attributed to men with scientific leanings. And lack of balance is a hurtful charge to bring against a lawyer! This was the banter and the philosophy, the jest and the hope of Beckwith's den.

The work had been rushed, and as it progressed other improvements had been added, and much unlooked-for expense had been incurred, so that it had

become necessary to place a two-thousand-dollar mortgage on the remodeled home.

Happy with a hobby, Beckwith was busy arranging the den. Many mysterious packages he carefully carried there, and he was always particular to lock the door behind him. A tantalizing wire screen covered the windows and revealed to the curious without only a poorly painted shipwreck; but from within the view was unobstructed.

But these alterations were not the most important subject in the minds of the family. Alice was not in evidence. Mrs. Miller was filled with pride, and anxiety was not a stranger. No one could fail to observe from her manner that something extraordinary was about to take place. Beckwith had become even more considerate of his wife and gave her more of his time, but he was not unmindful of his den.

In the course of time the looked-for heir arrived. Great was the satisfaction of Mrs. Miller when she was safely a grandmother. She was so proud of her little grandson and so devoted to him that when Alice had gained her accustomed strength, "Alexander" was well started on the way to be spoiled.

The years were fleeting, and Beckwith was still annoyed by debts and still devoted much of his

leisure to his den, where he spent the greater part of each Sunday. The surroundings of the homestead were gradually changing. Near it from time to time residences of the first class, some of them costly, were erected, and around it the city was rapidly spreading. It was still encumbered, but in fine repair and much improved. As fast as she could, without offending the mother, Alice had replaced many belongings of the house with those of her own generation, dressing it at small expense in a simple yet tasteful manner. She rejected Beckwith's suggestion that a decorator furnish it, declaring that she did not care for "bought taste."

In the house, and about it in summer-time, mother and daughter always kept a few flowers. This was not only a bond of sympathy between them, but a genuine privilege. Alice created another avenue of cheer, a source of pleasure to the whole household, born of the desire to re-christen with fanciful names. While the mind is satisfied with ordinary appellations, the imagination demands the right to a nomenclature of its own. Alice possessed this fancy to a remarkable degree. Nearly everything about her she pet-named, and the habit grew and developed. She constantly gave delicate names to material things,

babyfied or angelized those whom she loved, exaggerated her possessions with mock pretense, and created another world, semi-celestified, in which she lived with all that she deemed gentle and beautiful. This was possible because she had discovered the secret spring of happiness—she was contented. For this reason, too, she was able to forego with but a slight struggle those luxuries which Beckwith first offered and then endeavored to thrust upon her.

Thus she brought sunshine into her life and the lives of those around her. And thus, also, she was able to satisfy in her own way a desire to suitably pet-name Alexander. He had been born in the month of May, and for occasional use within the family she borrowed from a beautiful story of Chateaubriand the name "Child of the Flower Moon."

The Bath Institute was still in existence, although not flourishing as in the days of its founder. It shared the fortune of other charitable ventures, which are always struggling, but never fail. Alice had a lively interest in the enterprise of her two best friends. It was intimately associated with her father's memory, and it had been a contributing cause of her union with her husband. It needed more generous support,

and she devised a plan to provide it. A few women associated together, she believed, could effectively aid, as they did in kindred organizations. She induced Beckwith to present the matter to the directors. Eventually the idea was adopted, and she was holding her first office in a "little republic"—she was secretary of the board. The women raised no small amount of money; they regularly inspected the baths, which soon betrayed the touch of a woman's hand, and the institution was revivified by the inspiration of its new-found influence.

Alice had discovered another real joy. She not only had the intense gratification to be gained from doing something useful—something for others—but she and her husband had a cause in which they were both enlisted and which bound them more closely together. Beyond this, she formed a friendship with another young member of the board, of great activity, who drew her into an informal riding club, and she spent many a Saturday afternoon with Beckwith on horseback, exploring the country. Not infrequently the party attended the theater in a body, and there were dinners and musical and other entertainments, all on a modest scale, but highly enjoyable.

A good deal of pleasure, therefore, arose out of

her relations to the Institute beyond the delight she took in the work itself. In all that she did there was the constant suggestion of her father's approval, and his memory was an unfailing stimulus.

One evening when Beckwith was reading by the light of the same lamp that had illuminated his first declaration of love she gently folded his book and put her arms around him in the one way that women have when they are about to ask for something they really wish. He laughed outright.

"What is it now, little girl? It's yours—love is indulgent—you need not even ask! 'Fine feathers make——' "

"Vain birds!"

She gave him a mock slap.

"You have no idea what is in my mind—none in the world—or you wouldn't laugh."

"I know I haven't—but I agree without knowing. You couldn't get a better husband than that!"

"I am fairly well satisfied with my husband; but if you don't do what I want this time I'll heap coals of fire on your head! Now, listen to your big wife! I want to talk to you about the Institute. I'm in love with that work and expect to follow it as long as I live. But I want you to continue to have a keen

concern about it, no matter what the future may have in store for us. Since we have been helping to pull the same load we have been happier even than before. Probably we will not find anything else so likely to command the interest of both, and nothing, certainly, that will link us to father as this does. Dearest, I am young and lack influence, but I will grow and can do a lot in future years. Let us make it our pet. We can build up one of the institutions of New York in time—you and I together!"

Athletic arms were thrown around her.

"We'll give our best to it," exclaimed Beckwith, "and pass it on to our children's children. You are the most unselfish and the sweetest wife in all New York, and I hope I can put you in a position where you can do for your pet—and mine—something worth while."

As time passed Beckwith took increasing notice of the things that pleased his wife. On his initiative they went to the opera; there and elsewhere they heard the very best music. He gave her books that lifted her by degrees into the upper realms of the art. He clearly understood the effect produced by the contemplation and study of higher music and the better class of musical literature. She selected for

him books of a romantic, simple and touching kind. She knew full well that he—in his den a student, and away from home a man among men—needed such an influence, and it gratified her deeply to perceive the hopeful bit of foliage which sunlight was coaxing into life.

If he took pride in leading her to the highlands of music, she found joy in seeing his nature mellow under her gentling influence while they wandered together among the violets and forget-me-nots in the valley of sweet story. Thus gradually and unreservedly each was creeping into the life of the other, one cultivating the intellect, the other the heart; and by this process, in the glow of a radiating character, their lives were welding and blending.

CHAPTER VIII

The Trap

As soon as I enter the door of a tavern, I experience an oblivion of care and a freedom from solicitude.

—*Samuel Johnson.*

The joys of the table belong equally to all ages, conditions, countries and times; they mix with all other pleasures, and remain the last to console us for their loss.

—*Brillat-Savarin.*

BECKWITH'S practice had improved but little. It had grown, but the expenses had increased. Abandoning hope for great success at the law, he had devoted much time to selfish politics. In time he became the master of a settlement of Italians, in the upper part of the city, banded together for political purposes under an almost military discipline. None of them would ask a favor of those connected with politics except through the leader; and the leader, in turn, acted solely through the master. Beckwith watched him closely and saw that he was appeased by places at the municipal crib. It was all done in such a way that the lawyer controlled the situation, at least apparently retaining the power

of displacement. These rewards were supplemented with gifts and free legal services. Thus it was that Beckwith's hold upon the man was so absolute that he would hardly talk with the political agents.

At every election "Miller's Dagos" voted to a man and voted as he ordered. In return many small favors were doled out to them—all they knew enough to ask for—though Beckwith was aware that they believed he was constantly receiving money from the party coffers. To quiet any jealousy he sometimes served gratuitously the brighter members of the band, invariably, however, at the contrived request of their leader, and by these and other means he prevented his cohorts from breaking ranks. Occasionally offered recognition by the local party managers, he always declined.

He did not overlook the fact that he was being consulted with increasing frequency by those higher in authority. If he could hold the Italian settlement, which was growing in numbers, he would ultimately become indispensable. And recognition seemed certain if the system should endure under which New York was controlled by public service corporations, vice and the liquor traffic—a combination uniformly holding the balance of power in a patient electorate.

The system would continue at least long enough for him to secure a lucrative public position or some enviable employment with one of the interests involved. Many a fortune had thus been started. And why not his? How else could he provide for Alice as she must be provided for?

Late one afternoon a messenger delivered at Beckwith's office a letter from one of the party leaders. Beckwith's color deepened. The next morning he was among the waiting callers at the offices of the Harlem Street Railroad Company, and when the hands of the clock had moved around an hour he sat at the mahogany desk of the general counsel.

"Lagorio's fruit store covers two lots—he has a ten years' lease, and the company needs the property. We have options on the rest of the block—all cleaned up but this leasehold. We want you to help us. We'll get a stranger to make him an offer for his lease, and the leader of your Dagos will happen around and get Lagorio to consult you. To make sure, he will be told that you will not charge for your services. We will take care of your fees—liberally!"

Beckwith took his hat from the table and turned it over in his hands.

"You needn't hesitate," argued the tempter. "We

are willing to pay Lagorio a fair price, but we don't want to be held up."

Beckwith still had his hat in his hand.

"I have had my eye on you for some time, Mr. Miller. You must be practical: we make judges here!"

By the end of the week Lagorio's lease belonged to the street railroad company, and the general counsel was contending with Beckwith over his bill for services:

"Exorbitant! Unreasonable! Impossible! We could not live and pay such bills," the corporation's lawyer expostulated. "You will have to cut your charges in two at least if you expect to get any more employment from us."

Beckwith consented with outward cheerfulness, but walked home with his eyes upon the ground, immured within his own reflections.

George Patrick Ennis had grown from office boy to clerk. He had been admitted to the bar and was now a fixture in Beckwith's office. Of late he could see from the check-book that his employer was becoming more liberal in his house expenditures, but in other matters either less just or less generous. This

would have disturbed him more but for his great admiration for Alice—an affection not wholly unrequited, for she took a great interest in him and had more than once reminded her husband that he had a prize in his "French clerk."

One Wednesday Beckwith returned home ill-natured. On the next two mornings he was closeted in his den long beyond the usual hour of departure from the house; and he was sullen and brooding. Alice, quietly inviting a confidence, failed to gain any information. The symptoms were more aggravated than those of a passing humor; they were unusual with him, and she became solicitous. On Saturday she was awakened by a sense of impending danger; the premonition would not shake off, and she was the more disturbed because it was inseparably, though indefinitely, associated with Mr. Hodgkin. When she kissed her husband goodbye she held him close.

"Dearest," she pleaded, "don't ask me why, but I want you to do something for me—something dear to my heart, love. I want you to make my happiness complete by staying at home just this one day—now, don't refuse me!"

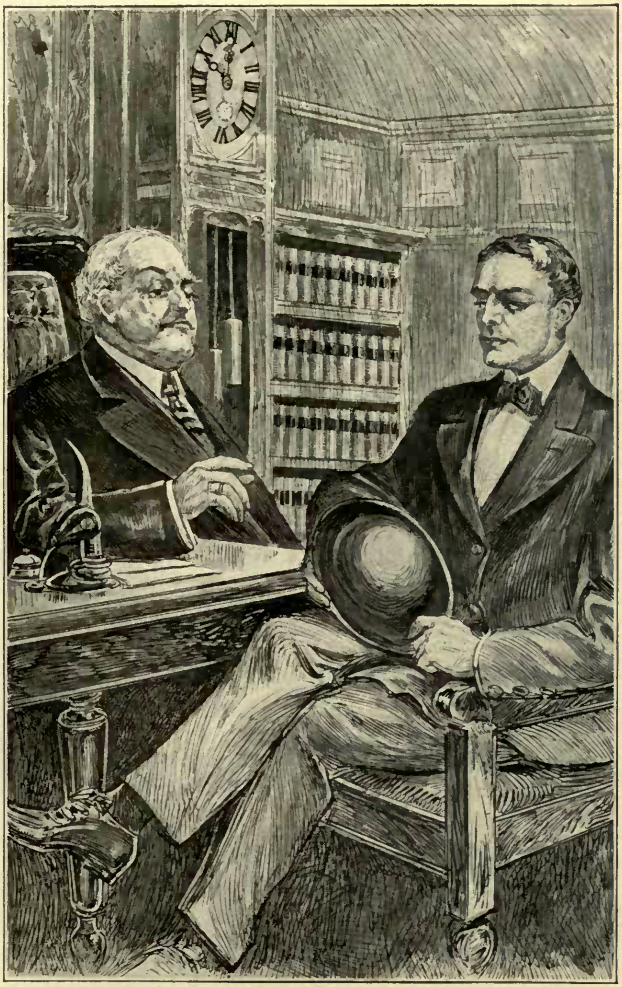
He avoided looking her in the eye and pulled away.

"Alice, it is absolutely impossible today—I can't do it, much as I love you. Now don't tease me!"

She became more apprehensive, and for the first time she was unhappy through any act of her husband. But if she shed a tear it was in secret.

At noon Mr. Hodgkin, serious and determined, came to the office. For half an hour lawyer and client were closeted. They left together and lunched at "Maltby's," a neighboring saloon and restaurant, where they occupied a private dining-room.

Not long afterwards they descended the stairs of the elevated railroad at 155th Street, walked a short distance down Macomb's Lane and stopped under an old willow tree with singular knots and tumors at its base. This tree had shaded many a celebrated person. It was, so to speak, a part of what had been known as "Florence's Hotel." This old hostelry had been built just before the signing of the Declaration of Independence, and for some time it had been a matter of grave doubt which George should have his portrait upon the sign. Aside from the willow tree and the age of the house there was nothing particularly interesting or attractive about the resort, and yet one felt an indefinable satisfaction at the sight of it. It had its own peculiar atmosphere, like that of a college or



"You must be practical: we make judges here!"

of the spots associated with historical events. It was indeed a visible proof that "an institution is the lengthened shadow of one man," for Billy Florence, the earlier and famous proprietor of the place, had made it what it was. The doorway of the hotel was not large, and Billy, so tradition ran, had always entered it sideways, his great breadth making any other manner of entrance impossible. He was remembered as a great talker, constitutionally short of breath, so that his conversation was intermingled with much puffing. He was a genius, and in common with most geniuses he labored hard and gave much attention to detail, having the reputation of setting the finest table of its kind in upper New York. In his cheery way he made himself known to each of his guests, and they never forgot him.

Billy had been obliged to draw his patronage from Macomb's Lane and for the greater part from those who made his place their objective point. And yet from his earnings in the little hotel—or restaurant, for it contained no sleeping-rooms for guests—he had accumulated several hundred thousand dollars. His fortune was a matter of great self-pride in the last years of his proprietorship, and he talked of it with gusto, ascribing his competence and his worldly suc-

cess always to his habit of "doing everything thoroughly."

"Did you ever hear about Stephen Girard?" he would say. "Well, one of his boyhood friends came to Philadelphia to visit him. Girard had ships of his own all over the world, and he owned them from bowsprit to rudder, and lived in a palace. And his friend was poor—shiftless. And it made this man mad when he saw how much Girard had and he had nothing; and so he said: 'Why, Girard, I knew you when you used to black your employer's boots.' Now, Girard, he didn't get mad. He simply says very quiet: 'Didn't I do it *well!*' "

Then Billy would clap his hands together as best he could and guffaw until he shook the rafters.

Remaining from the days of the famous proprietor was a colored servant named Robert, middle-aged, tall and shapely, dignified in carriage and demeanor. Under ordinary circumstances he was taciturn, but, when occasion demanded, ready of speech. During Robert's long connection with the hotel he had always occupied a small room near the bar. Here from time to time he overheard things of interest to the police, told in moments when too much liquor unlocked the tongues of a gang of criminals infesting the vicinity.

Much of what he heard he communicated to the secret service of the city, and had thus established friendly relations with many of the municipal detectives.

Robert was by nature a close observer of men and had a natural hatred of criminals. A less stolid character might have feared foul play at their hands, but he was certain they had no suspicion of him and felt secure.

The money he occasionally received from the secret service, added to his wages as a waiter at the hotel and what he earned by letting his boat for fishing parties, made him a fair income. During the reign of his famous employer he had acquired, also, a snug sum in the way of tips from those he served at table, many of whom were rich and some distinguished. If he possessed any of their secrets, they were safe in his keeping.

Billy had sold the place after celebrating its centennial, and it had almost immediately dropped out of fashion. It had now become an ordinary—in fact, a very ordinary—roadhouse, of which the negro was still a part.

When the two fishermen seated themselves under the willow tree, Robert came from the hotel with a box of cigars. Evidently he knew what brand they

preferred. Moreover, he was familiar with their favorite summer drink, for he placed upon the table a quartered lemon, a siphon of vichy and glasses well filled with ice.

Having attended to their wants, Robert left his patrons alone.

Mr. Hodgkin lighted a cigar and smoked vigorously.

"About so far from every town on the traveled streets," he presently observed, "someone sets up a roadhouse. The institution seems to be a fixed part of urban settlements."

A nervous movement of the hand pitched Beckwith's cigar upon the ground. As he picked it up and wrapped some paper around the end of it a scowl overspread his face, a savage look escaped him and he glowered at his companion. He soon led the way a few steps to what was then known as Macomb's dam bridge, named after a property-owner who had dammed the river at this point and thus made his way to fame.

Here at one time eels had abounded, as well as bass and other fish, making the place attractive to anglers. Now that the fishing-ground was exhausted the bridge was still the starting-place of parties bound for more

remote points. The pier immediately east of the bridge had been abandoned for some years, and Robert had appropriated enough of it to moor a boat. He swiftly rowed his guests up the Harlem River to a favored fishing-ground on the way to Spuyten Duyvel Creek.

They glided on in silence.

From observing wealthy patrons, Robert had become fastidious, particularly with respect to smoking. The pipe which he used in his boat had a mouthpiece which screwed into its stem, and in a small box nailed to the side of the boat were kept fresh mouthpieces for use when he wanted to make a change. Mr. Hodgkin, not satisfied with his cigar, picked up the pipe, already filled, took a fresh mouthpiece, put it in place of the one already in the stem and lighted up. During the day he had been extremely nervous and had tried one cigar after another only to increase the trouble. But the large pipe soothed him, and he smoked energetically as they passed on by meadow and wood and country seat.

At length Robert ceased rowing and prepared the lines, casting a sly, wistful look at his pipe. A moment later all were statues, molded in a fisherman's quiet.

As time passed Mr. Hodgkin thought of his property; the negro, of his pipe; while Beckwith, uneasy, shifted about, glancing toward his client or looking far into the sky with gloomy brow.

Suddenly but cautiously Mr. Hodgkin rose. He laid down the pipe. Leaning far out over the boat, he landed a fish. The exercise and excitement exhausted him, and he dropped wearily into his seat. The pipe had meanwhile rolled to his feet. Picking it up again, he lost his balance and dropped it overboard. Sinking back, dizzy, he clutched the sides of the boat to sustain himself.

Beckwith watched the sense of loss depicted on Robert's face, but gave little heed to his other companion.

"I've not been well all day and I'm growing rapidly worse," exclaimed Mr. Hodgkin. "Robert, get the boat back as fast as you can. Don't lose any time! Indigestion, I guess, Miller—but it takes hold with an ugly grip."

The lawyer made no comment, but took charge of the lines to leave Robert free.

Shortly Mr. Hodgkin was seized with an attack of nausea and emesis, against which he vainly struggled.

Beckwith's features relaxed, and he surveyed his companion closely. "You'll feel better now," he predicted; "but keep quiet for a while until your nerves settle down."

The sick man followed instructions abjectly.

With more than ordinary strength, born of apprehension, Robert rowed toward his pier.

Mr. Hodgkin shifted from one position to another. "I'm nervous as a hawk," he exclaimed, "gloomy—depressed—I can't shake it off. It's thirty years since my stomach has revolted—something powerful must be at work. I've eaten nothing unusual except some peaches, but I've smoked all day."

They were now passing another boat, and Beckwith hailed its occupant. "Got any brandy or whisky?"

"Not a drop! Man sick? Anything serious?"

"Cholera morbus, I guess—nothing alarming."

Mr. Hodgkin had his finger constantly on his pulse and continued to be greatly agitated. "That was a big pipe—strong tobacco—too strong." The words came with great effort. "I'm in for it! I can't see distinctly—Miller, things are dim—very dim."

His pulse, which had become slow and full, was now irregular, while cold perspiration, increasingly

profuse, started on his forehead and hands, and the skin became clammy.

"How long will it take us to make Florence's?" inquired Beckwith of Robert.

Mr. Hodgkin did not wait for a reply. "I can't stand this! Land! Land over there! I must have a doctor—I won't last much longer!"

His command was obeyed. While he was being led from the boat, he turned a hopeless look to the others. He dreaded the answer as he whispered, "Is the boat red?"

Both nodded assent.

He looked back over his shoulder, rubbed his eyes and looked again.

"It's blue," he muttered despairingly. This unnerved him more than the other symptoms, and he was with difficulty assisted to the only near-by refuge, a saloon called Wattengurter's. Here the attacks returned with violence, in other ways Nature was rebelling, and at intervals full consciousness was lost.

The sufferer sank heavily to the floor, exhausted. He tried to rouse himself, but his strength failed entirely. The brandy offered between hiccoughs he pushed aside, and when it was pressed to his lips he made no effort to swallow.

Beckwith, who was now thoroughly aroused, ordered the doors and windows thrown open.

"Run for a doctor," he commanded, turning to Robert, and he also sent on the same errand every intruder whom curiosity or chance drew into the room.

With the assistance of the barkeeper the sick man was lifted from the floor and his heavy form was disposed as comfortably as possible on the green top of a billiard table, Beckwith taking off his own coat to place it as a pillow under his client's head.

Meanwhile the attacks returned with varying symptoms, but decreasingly pronounced. The breathing gradually became slow and sighing. The pulse, as noted by Beckwith, who felt from time to time the wrist of his afflicted companion, was intermittent.

At length a physician named Beaton arrived and made a hurried examination. A little later two other doctors entered together.

Except for the whispered questions of the medical men and the low replies, nothing broke the silence. The stricken man was motionless; his features cold; the eyes prominent, but expressionless, and the pupils fixed and dilated.

The busy doctors looked grave as they occasionally counseled in undertones.

Dr. Beaton, in one hand his watch, in the other the patient's wrist, raised his head and glanced at Beckwith, who was anxiously bending over him.

"He is very low."

The patient closed his eyes and foamed slightly at the mouth.

Robert, startled, believed the worst had come.

He was right.

Mr. Hodgkin was dead.

CHAPTER IX

Into Dust

The most intangible of all visible mysteries—fire.
—*Leigh Hunt.*

Lying in the sunshine among the buttercups and the dandelions of May, scarcely higher in intelligence than the minute tenants of that mimic wilderness, our earliest recollections are of grass; and when the fitful fever is ended and the foolish wrangle of the market and forum is closed, grass heals over the scar which our descent into the bosom of the earth has made, and the carpet of the infant becomes the blanket of the dead. —*John J. Ingalls.*

THE body of Mr. Hodgkin could not be removed until a coroner's jury had passed upon the cause of death. The jurors readily adopted the opinion of the physicians and found that dissolution had taken place because of cholera morbus and excessive smoking. When the verdict was signed Beckwith addressed the Coroner:

"If there's any real doubt about the cause of death, I freely consent, so far as I am concerned, to a *post-mortem*."

The official had already in Beckwith's hearing

reminded the medical men that he had been criticised for making such investigations, on account of the expense which he was charged with incurring for the benefit of personal friends. The physicians, now impatient to get away, agreed that the step was unnecessary and delivered the body to the undertaker.

Beckwith, well knowing the provisions of his friend's will, arranged with Mr. Hodgkin's safety deposit company to surrender the instrument to an officer of the Surrogate's Court, and it was quickly filed. In substance it read:

Item: I give, devise and bequeath to Beckwith Miller all my property . . . in trust . . . to pay to my niece, Bertha Hodgkin, semi-annually during her natural life the net income thereof, and after her death the . . . residue . . . to convey . . . to the Public Bath Institute. . . .

Appended to the will was a codicil, executed five months before Mr. Hodgkin's death:

Item: . . . I give, devise and bequeath to Beckwith Miller . . . the sum of Twenty-one Thousand Dollars . . . as a gift and in full payment of his services as executor.
Item: I direct that my body be cremated.

Bertha Hodgkin was on her way back from Europe, and Beckwith knew by what boat she was to arrive.

To wait for her would occasion but twenty-four hours' delay; but, deaf to the earnest protestations of those at home, he arranged by telegraph for incineration in the crematory at Washington, Pennsylvania. Alice insisted that he should personally carry out every wish his generous friend had expressed in his "fire and water will," but pleaded for a day's postponement.

The next morning the train rolled into the little village of Washington. Under other circumstances Beckwith would have looked upon the old-fashioned houses and streets with the feeling that time-worn things inspire, but which words fall short of expressing. The lifeless scene would have induced reflections upon the progress of decay—thoughts of the histories written upon the old habitations: a birth, a babe in arms, a little child carelessly at play, a boy, a man, a family—and crape upon the door! How many times, in poetry and prose—in broken lines and lengthened sentences, in characters so fine as scarcely to be legible, in bold and rounded hand with here and there a blur—was the ancient story written on those homes!

But Beckwith's thoughts were not free, nor would they be at rest until his task was done.

He entered a carriage, the body of his friend was

transferred to a hearse, and the living and the dead passed up the graceful hills to the crematory. This had been built in 1876 at a cost of but fifteen hundred dollars by one of the early abolitionists, Dr. F. Julius Le Moyne, who was the third person to return to dust within its walls.

The structure was fenced off from the adjoining farm and the space around it planted with shrubbery. Beckwith followed the gravel walk to the reception-room, where a granddaughter of the late proprietor was waiting. This little maid, black-haired and pretty, took a chair beside him and looked inquiringly into his face. A few of the neighboring farmers and villagers gazed vacantly about. The primitive people respected the place and the event.

The view from the room was obscured by a bank of trees, but even the leaves were still.

The minister entered, and, close behind, kindly strangers followed with the casket and placed it upon its standards.

The simple, eloquent burial service of the Episcopal Church was read, and when the curious crowd had departed, the attendants placed upon a long, heavy table a wrought-iron cradle, shaped to hold a human form. The body, wrapped in a sheet saturated with

alum, was lifted into the cradle—that symbol of rest at the beginning now reserved for the end of life—and, all being in readiness, was brought to the furnace-room.

The door of the retort was thrown open.

Instantly the dazzling whiteness within was changed to an iridescent red, incomparable to anything Beckwith had ever seen, the varied tints dancing and flitting in countless surprises.

The cradle was pushed into the retort. Through the isinglass in the closed door Beckwith, with pale face, was permitted to watch for but not to see the effect of the consuming heat, for the alumed shroud hid its captive from view. No smoke, nor odor, nor steam, nor suggestive sound, indicated the process of nature which the fire was accelerating. No flames reached the body: the change that was taking place was purely chemical.

Beckwith was aware that in some of the Old World crematories, less crude, a heat of 2700 degrees Fahrenheit is obtained and cremation is consummated within a short time, but he was informed that it would be ten hours before this incineration would be complete. He made no comment, but turned toward the open door.

A messenger ran up the walk, out of breath, and thrust into his hand a telegram. He opened it:

I forbid cremation. Reach Washington tomorrow. Stop everything. BERTHA HODGKIN.

CHAPTER X

A Woman Scorned

A luxurious life does not foster a luxuriant character.
—*Maj. Russell.*

TROUBLE was brewing. Beckwith had to deal with a woman scorned and one jealous of her authority, and this was by no means the end of the chapter. He divined that as soon as Miss Hodgkin had landed, a plausible representative of one of the grasping detective bureaus had secured an audience with her. By insinuation and a surprising knowledge of unimportant but obscure facts, harping upon the will and its codicil, so largely in a stranger's favor, and the sudden death of her uncle, the cunning detective had injected more poison into a mind already envenomed, aroused suspicions—and obtained employment.

Ignoring the telegram, Beckwith gave no directions to stop the havoc of the flames. With clouded brow he followed the trail across the peaceful, billowy hills, so richly carpeted in green and horizoned by the

azure sky, to the town with its deserted streets and homes bent with age. In spite of his forebodings he gave a moment to the reflection that the oven on the hill which was destroying the yet imperfect work of the great destroyer had been erected and maintained for years by a pioneer in an important reform, and he mentally paid reverence to the brave heart that had prompted this suggestion to a continent.

Pregnant apprehension did not keep Beckwith from the grounds of the college. He knew the story. It had struggled for many years under the name of Washington. The career of its neighbor, Jefferson, at Canonsburg, was similar. In their old age they had married and were now journeying on together in a simple, useful and ideal union, bearing the name of both. Viewing the venerable school, he first allowed his mind to dwell on the vain regret that he could not have laid more broadly the foundations of his education. He soon felt more at ease, even if not altogether undisturbed. The suggestion of student life, the atmosphere of a college enclosure, the charm of study halls, the glamour of cap and gown, the halo of learning—all this he could understand, even if it were not consecrated by memories. His spirit was mellowed, and there stole into his consciousness a sense

of the personal presence of one whose happiness was wholly dependent upon his own.

By evening the incineration was complete. What remained of the human form laid in its fiery bed not many hours before was but a few white bones silently crumbling.

The next morning the ashes were placed in a small box and carefully sealed, to be guarded until the niece should arrive.

Beckwith wished to know the extent of the destruction which he had in part witnessed, and at his request the box was weighed. All but seven pounds of the heavy figure of his companion had been consumed.

At the station, a few bystanders seemed to take an unwarranted interest in Beckwith, but he was indifferent to their staring and occasional whisperings.

As Miss Hodgkin stepped from the train he had opportunity to observe the change which a few years of high living and low thinking had made—a change much exaggerated by his new angle of vision. The coloring was notable: the face had a deeper red, which made hair, eyebrows and eyelashes seem intensely black; the expression was sinister; the jaw was more set; and an imperious bearing dominated every movement.

Miss Hodgkin's eye met Beckwith's, and she went quickly to him. He was ill at ease; he felt that early sense of the woman's power—now greatly augmented, but in a different way. He was on the defensive and plainly cautious.

She did not offer her hand, but surveyed him and tossed her head.

"Have my instructions been obeyed?" she asked, her eyes snapping.

"Your telegram came too late, Miss Hodgkin."

Her sharp manner riveted the attention of the onlookers, and they elbowed one another, eager to catch each word that passed.

"Oh! it did? Well, you'll account to me at another time, Beckwith Miller." She fastened upon him the eyes of a serpent, and they plainly said: "Now I'll wreak the revenge I promised you years ago."

"I have obeyed *your uncle's* instructions, and the urn is at the crematory subject to your orders; so I am through," Beckwith said, unabashed, as he waved himself aside with a sweep of his hat.

He occupied an awkward position in the eyes of the depot crowd. While they did not understand the situation, he knew that they regarded him with little favor, and he determined to rid himself of the annoy-

ance at the earliest moment. Following Miss Hodgkin down the platform, he addressed her in a tone of pretended apathy.

"Pardon me: I wish to be relieved of responsibility, and I take it for granted that you care for nothing further from me."

"You may return home," was the swift and contemptuous reply.

Bowing slightly, he made his way to the small hotel, and shortly went back to the station.

The crowd had grown. The telegraph operator had made known the contents of the telegram. Moreover it transpired that two men who had come on the train were chemists from Pittsburgh. The news had spread and the townspeople were alive with excitement. When Beckwith boarded the train he was the central object of a throng.

Having nothing to do or to direct, the chemists left by the next train, while Miss Hodgkin remained another day.

Special press representatives ran out from Pittsburgh, and by the time the niece left with the ashes of the dead the place was alive with perplexed people.

The mysterious proceedings at Washington were reported with many embellishments in the metropolitan

newspapers, and on his return Beckwith and his family were besieged by reporters. But the lips of all concerned were closed. Even George dismissed all who made inquiries with the words:

"Know nothing and have nothing to say."

Soon Beckwith realized that he was being constantly followed and watched, but he carefully kept this knowledge from those at home.

To add to the mystery Robert could not be found.

The family were anxious. Appearances were especially difficult to maintain at the table. No one ate with any relish, and even Alexander shared the nervous loss of appetite.

While Beckwith went to his office as usual, he was visited by few clients or former friends. Occasionally he stepped over to one of the courtrooms, but even there, from the bench, among the bar and the clerks, he found only curiosity and coldness. The finger of public suspicion was pointing at him. All this he might have endured with comparative ease if he could only have escaped from the ever-present detectives with their apparent unconcern. They haunted him until he came to regard all strangers as eavesdroppers and trusted no one.

All this time Beckwith had not seen Miss Hodgkin.

She was not even present when the will and codicil were proved. Nor had she communicated with him in any way.

On entering his office one morning Beckwith found his safe drilled and the contents gone. Every vestige of writing, including his letter-books and records, had disappeared. His clerk, maudlin, with bloodshot eyes and colorless cheeks, sat looking wildly at the wreck.

Beckwith was sullen.

"George," he said, "I hoped your self-respect would keep you from drinking, and I believed you had too much gumption to be outwitted by one of those detectives in so simple a manner. You are old enough to know better."

He wandered to the open window and stood with a foot upon the sill, his elbow resting on his elevated knee, and his cheek on the palm of his hand.

The clouds were gathering.

Absorbed in his reflections, he failed to notice a slight pressure on his coat-sleeve. George, remorseful and melted to pity by his employer's situation, had advanced noiselessly to him, his head bowed and his eyes moist.

"Mr. Miller, I had nothing to do with these papers and things being gone. The police——"

The lawyer nodded his head to indicate that he understood, and then placed his hand sympathetically on the boy's shoulder. In the past he had valued merely the respect of his clerk, but now he realized that he was drifting to a point where he might need his friendship.

Beckwith knew his books and papers would soon be returned. He knew, too, that some facts would be learned from them that would embarrass him should he be accused of murdering his client. And it galled him that his right of freedom from search, guaranteed under the constitutions of his State and his nation, had been set at naught.

The thought of strangers examining his private papers and invading the sacred confidences of his clients outraged his conception of justice. The first principles of liberty, here, in free America, had been ruthlessly violated.

His distress was complete. The satisfaction of his occupation, his office, his home—all—had been destroyed.

Beckwith left his work earlier than usual that day to help prepare for another of the annual baseball dinners, but his wrongs and worries he kept secret.

The boys had won. They were in fine fettle, but

repressed. They were aware that their friend was in trouble, but they did not know how deeply. They had delicately suggested abandoning the event for that year, but had been met with a flat refusal. In the ardor of speaking the boys forgot somewhat their restraint on the one hand, but, on the other, their homage to the host was too marked.

A fine bit of humor drew from Beckwith once again his royal laugh and spontaneously brought forth the free applause of youth, but it shocked Alice. A moment later her husband's eyelids drooped and his countenance assumed an unwonted expression. She sensed something gravely wrong. Turning, she saw an officer of the law standing in the doorway, mute and like a statue.

Beckwith was a prisoner.

CHAPTER XI

In the Tombs

I never saw a man who looked
  With such a wistful eye
Upon that little tent of blue
  Which prisoners call the sky,
And at every wandering cloud that trailed
  Its raveled fleeces by. —*Wilde.*

THE arrest created a sensation. For years the administration of the criminal courts in the community had been lax, and the press urged a vigorous and relentless prosecution.

The fact that the lawyer was the only person who could have had a motive for murdering Mr. Hodgkin pointed strongly, though negatively, to him as the murderer. Positive evidence of guilt was not so easy to obtain.

The investigations made by the Pittsburgh chemists, who were reported to have been permanently employed on the case, were kept from the public.

What was disclosed by the papers found in the prisoner's office was likewise a secret.

At length it transpired that Beckwith had a large bank account in a fund marked "Special."

Other facts were unearthed from day to day through the diligence of the reporters, but a great deal of mystery enveloped the situation.

When interest lagged, the District Attorney would be quoted as saying that the case was the clearest instance of murder that had come to his knowledge. He was not unmindful of the influence of such statements, for they had the weight of official declarations in the popular mind by reason of the prestige of his office.

Public feeling was strong. While it granted the accused the right to an impartial trial under the law, it demanded his life should he be found guilty.

Beckwith was a prisoner in the Tombs. It was here that he had met his first client. His start had been acquired by defending prisoners not able to employ counsel, and by faithfully and courageously serving them and absorbing all that he could from the experience. In this way he had gradually earned something of a reputation, and then he had abandoned the unsavory criminal courts.

The Tombs had thus been the objective point of frequent visits for a long period. He had gone in

and out with no special thought of the place. But as a prisoner, he had entered it with different feelings and could understand more fully how his clients had chafed under their confinement.

The prison had stood for almost half a century. Near by, at one time, there was a fresh-water lake, later known as "Collect Pond." It was in this lake that John Fitch, Fulton's greatest predecessor if not himself the real inventor of the steamboat, floated the first propeller. Collect Pond had an outlet into the Hudson River through Lispenard's meadows, which were drained in after years by a ditch that gave the name to Canal Street, and a swamp marked both sides of the street from the river to the site of the Tombs.

When it was determined to erect a city prison the Collect grounds were chosen. At that time a book of travels which, among other things, described with graphic detail an Egyptian tomb, attracted a great deal of attention. This description, forming one of the most entertaining parts of the book, struck the fancy of the public and suggested the design as well as the name of the new city jail. Certainly this pile of somber gray granite with its severe and massive Egyptian architecture fitted the accepted idea of a

prison, indicating a designer of master mind rather than the evolution of a mere hint in a book of passing favor.

Collect Pond had been filled with the rubbish and refuse of the city, and the structure reared upon ground thus made could hardly be healthful. The Tombs was, indeed, damp, and occasionally, when water was forced back from the drain-pipes into the cells, the sanitary conditions became alarming. Dickens and Thackeray both referred with indignation to the unwholesome character of the place; public as well as private criticism was sweeping and frequent; but the evils had never been even ameliorated, and the prisoners, many of them innocent, continued to endure the double punishment. The prison, in spite of all this, was popular enough, however, thirty thousand of God's own creatures being committed to it in a single year—a hundred for every week-day.

Beckwith was confined in one of the cells allotted to those charged with serious offenses. Upon the wall immediately outside the door hung a small slate, such as he had bought for Alexander, and upon it were written the words:

Beckwith Miller. Murder.

The doorway was so low that he had to stoop to pass through, and it was barely wide enough to admit him. But every afternoon the prisoners were allowed to use at will the iron walk extending around the entire court in front of the rows of cells which faced and kept watch of each other.

The white interior walls contrasted sharply with the black doors, but the effect upon eye and nerve was monotonous. To Beckwith even the faces of his unfortunate fellows became tiresome. With head erect and chest expanded he doggedly paced around his tier, replacing as nearly as possible his daily walk part of the way home from his office. A low cot with a soiled and worn comfort, a pine chair and washstand comprised the furniture of his room.

Soon after his imprisonment he asked for pen and ink and paper. At the sight of the writing-materials a neighboring prisoner who had been refused a like request broke into a blasphemous tirade, heaping on the turnkey every oath and vile epithet at his command. His billingsgate aroused the venom of other criminals, who swore and cursed at him. In such a sulphurous atmosphere Beckwith penned this letter to his loved ones:

Dearest Wife and Mother:

I am not settled in my temporary prison, but send you an account of my surroundings. I hope you will mention it to no one and will keep silent under all circumstances. You must not feel bitter or alarmed. Under the law at times we must suffer for the common good. My situation here is not deplorable. The food is plain, but wholesome; the "dormitory," as it might be called, is clean and neat, and the ventilation fair. My room is not large, but it is comfortable. The officers are considerate. I am shut off from the other occupants, and you need not think of me as undergoing a great hardship. George will call at the house for any messages you may wish to send, and we will arrange for your visits.

I trust, Alice, dearest, you are better. Be brave! I shall employ counsel and see that I am vindicated at the earliest moment. Rest assured on one point: even if I were guilty there would not be the least danger of their inflicting the death penalty on me. But I mean to prove my innocence for your sake even more than my own.

I deeply regret bringing this trouble upon you who of all women do not deserve it. My love to my dear boy and to you, my faithful companions. My will is unconquered.

Lovingly, BECKWITH.

For some days Beckwith had believed that he would be arrested, and he had deliberately considered the phraseology of his first message from prison, having in mind that it might be read by the jailer before it reached the post-box.

His next consideration was to determine who could best defend him. His choice was Colonel Sickles, a lawyer no longer in his prime, but experienced and

still considered a man of strength. How to raise sufficient money to meet his demands was the real problem. He asked for an interview, and the next day the turnkey appeared and led him down the iron steps out into the free air and across the jailyard to the two large rooms used for consultation between lawyers and their clients, irreverently called "the cage."

Here was the Colonel. He had seen service, though his title was not fully earned. A captain in the Union army, he had been brevetted major and arbitrarily promoted among civilians to the rank of colonel. He was of average height and weight, with regular features, on which account, perhaps, he wore no beard or mustache. His hair and eyes were brown. His attire was plain almost to the point of affectation, his only adornment being a ring of wide band, set with a large, flat emerald, undoubtedly dictated by sentiment—if not sacred, at least secret, for he never explained why he wore it or how he had come by it. When it was the subject of comment he volunteered the statement that it was a present from a friend in the land of blarney.

He was what Alice called a "medium." Though the Colonel in stature and other physical characteristics was a medium man, he was by no means a medium

lawyer. One would know he was a success in some avenue of life by the extraordinary brilliancy of his eye, the quickness of his movements and the power of which his general bearing unmistakably told.

"Hello, Beck. In trouble, my boy? Not serious, I hope!"

"Well, not far from it, Colonel; but you have won more hopeless cases, and I am innocent."

The two lawyers walked to the most retired corner of the farther room and leaned against the heavy wall.

Beckwith touched upon the main features of the case. The dreaded question of fees he reserved to the last, making a frank confession of his estate—in reality a balance-sheet.

When he concluded the Colonel looked grave.

"It's worse than I anticipated," he said, as he twirled a bunch of keys upon his index finger. "The case will require, in preparation and trial, an enormous outlay of time and considerable money. I had not been with you long before I guessed the conditions with respect to money matters. While we've been talking I have been considering the situation, and this is the way it presents itself to me: Here you are, Beck, a poor devil of a lawyer, in peril. You can't

conduct your own defense, for, as we say, 'a lawyer who tries his own case has a fool for a client.' Poor counsel could lose this case easily, and I don't suppose any lawyer of ability is likely to come forward. You will need every cent you can get together for the expenses, apart from attorney's fees. Have you any friend at the bar who will look after you and make no charge?"

"No, Colonel—not that I know of."

"Well, my sun is setting, and while our profession has honored me, I have done nothing in return. Here is a chance, sure enough! I've about made up my mind to serve you. But you must remember that I am paying an obligation to our calling. If you were not a lawyer you'd have to put up with the services of some tyro, and then you'd be in a fix. So, when we get through you'll owe a big debt to the profession, and I want you to pay it—not to me, you understand—not to me—but to the profession. Of course, if you win, you'll be able to take care of me out of your income from the estate. I'll leave that to you. Otherwise, my friend, command me without stint and without price."

This chivalrous offer Beckwith had not expected.

It was like a rope thrown to a drowning man, and he controlled his emotion with difficulty.

"You are generous—too generous!" he said. "While I must accept your services without present compensation, I can lighten your burden. I have a faithful clerk—a lawyer—who will be of assistance to you. I'll arrange with him to give you all his time until the case is tried. When he is not busy with you he can be useful to me."

"That is handsome! We'll get on famously."

Beckwith well knew the importance of able counsel in a serious case, and as the Colonel departed he thanked him with fervor for himself and for his family.

CHAPTER XII

Sun and Shadow

When Anacharsis knew what Solon was about, he laughed at his undertaking, and at the absurdity of imagining he could restrain the avarice and injustice of his citizens by written laws, which in all respects resembled spiders' webs, and would, like them, only entangle and hold the poor and weak, while the rich and powerful easily broke through them.

—*Plutarch.*

IF Beckwith's well-developed telepathic faculty was to be relied upon his lawyer was inclined to believe him guilty! But every situation has its hopeful logic: the lawyer would strive all the harder! While Beckwith knew that the case was not an easy one, he was not overanxious as to the result. The fear that most disturbed him was that he could not meet the expenses of the trial. To provide funds while confined in a cell seemed a mountainous undertaking. Another worry was present. He had hitherto looked upon the Colonel with the envious eyes of the young practitioner. Now, when he analyzed him from the standpoint of a client who had liberty and possibly life at

stake, there was a suggestion of waning power not altogether comforting. But he could not tell how much of this feeling was produced by contrast with his own vitality. One thing was certain: if he had not employed the best counsel, he had employed the best obtainable.

Beckwith next arranged with the officers of the bank to manage the Hodgkin estate and attend to the duties imposed upon him by the will. Miss Hodgkin's interests, of course, were safe, and she had been instructed not to interfere for the time being except to preserve her status. She was in any event entitled to most of the income, and it was possible to borrow upon her expectancy sufficient money to gratify her personal wants as well as to push the prosecution to the utmost. Accordingly, she had complied with the first formalities required for a contest of the will and then consented to a truce under which Beckwith was to have nothing from the estate until his fate should be finally decided. She had, therefore, a very practical interest in convicting him. If she could accomplish her purpose there would be no opposition in her contest except from the Public Bath Institute, with which she might reasonably hope for a compromise whereby she would be able to lay her hands, untrammeled, upon much of

the coveted wealth. "And success in this particular would not be wholly in vain," the Colonel observed, "for it would afford another illustration of the futility of hoarding and accumulating."

Beckwith did not relish the operations of Miss Hodgkin and would have chosen, if he could, a different Nemesis. But his own immediate concerns were uppermost in his mind. While pondering over his case and the means of raising funds he was interrupted. Again he was led down the steps, not to the cage, but to the ground floor of the jail. Waiting to see him was the leader of his band of Italians. He had come to offer help: his followers had raised seven hundred dollars which they tendered as a testimonial.

Beckwith's friends had all deserted him, and this timely aid was more than grateful. He realized that human nature is too weak to admit of a lawyer's conducting with full enthusiasm a case in which he is wholly uncompensated. Here was his opportunity. He sent the money to his counsel, urging him to accept it as a fee, insisting that he would add to it as he might be able in after years, and avowing also the debt he had assumed to the profession.

Every few days thereafter the lawyers were closeted.

These interviews were boons to Beckwith, for they relieved the stagnation of jail life. The visits of the family were under such restrictions as to be of no great solace. Occasionally some member of the bar, fallen heir to one of his lawsuits, would make some inquiry; but callers were rare. He was, however, busy mapping out his defense. At times he would look back to his former plans that had seemed to be founded upon a rock. How they had failed! And how they had dwindled in importance! More often he was tortured by a feverish desire to provide for those at home in case anything should happen to him.

He was carrying a ten-thousand-dollar policy in the Permanent Life Assurance Company and succeeded in raising enough for a premium payment. George, who went to the company's office with the money, returned with word that the premium had just been paid by someone who wanted his name withheld. Who could this be? Beckwith often tried to answer the question. It was the Italians!—or the Colonel!

The raising of funds was a source of constant worry to Alice. She diligently and persistently set about collecting a number of accounts on the office books which both the Colonel and George had failed to har-

vest. In this gleaning she was from time to time successful, but still more money was needed. She had a long conference with the mother, and the next morning appeared in the Colonel's office.

"I have some more for you—quite a lot," she said, as she laid on the table a small pile of paper currency.

The lawyer straightened out the bills and passed his hand over them.

"This came from the bank," he observed. "You threw away the bank wrapper, but you forgot about the pin-hole! How did it happen? You needn't answer—this is the tailings of your father's estate!"

He put the money in a large envelope and placed it in Alice's hand.

"We can't use it, Mrs. Miller. Put it back in the bank, and do it right off before you're tempted to spend it. You need it worse than we do—you must keep something in reserve, for the siege may last a long time. Your husband will appreciate this as I do, but—you want me to keep it a secret! Afraid it'll worry him! Well, just as you say!"

Alice was nearing the end of the road. After turning matters over in her mind she begged Beckwith's consent to a sale of the homestead; but he

would hardly listen, and in a spirit of sacrifice gave it an emphatic veto. Undaunted and with renewed determination she went back to the task of collecting the office accounts, and, gathering a little here and a little there, kept alive her hope.

CHAPTER XIII

TEMPTATION

The great prayer of all the ages is, *Lead us not into temptation.* —*Maj. Russell.*

NOW and then some small incident varied the routine of Beckwith's life in the jail. Reporters and others tried to talk with him, but he was firmly, good-naturedly reticent. Often other prisoners—sometimes detectives in the guise of prisoners—strove to draw him into conversation; but to no purpose. He was dumb.

One day the turnkey stealthily unlocked the cell-door and officiously led the way down the steps again and across the yard. When they reached the Jailer's private office the official stepped to one side and waved his hand toward the door, which had stood open, but which was closed and locked immediately after Beckwith had entered.

"Are they planning an escape?" Beckwith asked himself. "The danger of detection is great, and flight

would be an awkward admission of guilt; sufficient, with the other evidence, to convict if I should be recaptured. Why should they take such a risk on my account? Politics? No! It would hardly extend that far!" He looked about him. The private office was as impregnable as his cell, for the only opening was through the heavily barred window and the door by which he had been admitted.

Fears arose in his mind that he was about to be trapped into some compromising situation—that he was to be the victim of some sharp detective trick; for he knew that the State, as well as Miss Hodgkin, was bent on his destruction. He was on guard.

Watching the entrance, he listened intently.

A hammering noise penetrated to the room, repeated twice, as if the turnkey were striking his big key against the iron bars.

Immediately the door of the private office was unlocked and a swarthy, tall, broad-shouldered man appeared, well dressed and of gentlemanly bearing. Grasping Beckwith warmly by the hand, he looked into his face.

"Beck," he said, "I'm your friend—I say, I'm your friend, and I'll prove what I tell you. You need help, I guess."

The prisoner made no reply by word or look.

The stranger paused and then continued:

"You don't know *me*. I'm a man of standing, or I couldn't see you here. One of your friends has given me a note. I haven't read it—know nothing about it. All I do is to deliver it; you read it later. Here it is. I'm glad to have seen you! Good day!"

The man placed in Beckwith's reluctant hand a small sealed envelope, pulled the end of his mustache around into his mouth, in unmistakable imitation of the leader of the Italians, and vanished.

Soon the lawyer was back again in his cell.

The turnkey locked in his prisoner and left him to reflect upon the power of a common jailer.

Not long afterward an attendant seated himself in front of the cell-door.

This was uncommon.

Was the man there to watch him when he read the note? Or to be conveniently at hand to discuss the subject matter?

Beckwith threw himself upon his cot and slept, now and then awakened by the hardness of his bed, and again by thoughts of his wife, his mother and his boy. He could be of no assistance to them and tried not to worry about them; but the heart is master in

the vacant stillness of night. There was very little left in life for him. He could not study over his lawsuits! Nor over the improvement and repair of his home! He had nothing left but his single case and his desolate family: from one he was isolated, and from the other exiled.

But he had escaped those refined cruelties known as "the third degree," practiced on others in his situation, for the police were aware that he was too well posted to submit to them or to be influenced by them. Not everyone can stand the strain for forty-eight sleepless hours of constant questioning on one subject by crafty men, operating in relays—men trained in the art of breaking down the will by inspiring hollow hopes, by every form of lying and deceit and by the myriad ways in which power oppresses the weak. Nor can many endure protracted thirst, with savage language, brutal threats and heartless beatings. Human nature is too frail. It confesses, whether or not there is anything to confess! Beckwith was receiving an unpromised reward for his service in the criminal courts—he was spared these tortures.

It was dawn. The attendant had left his post. Drawing close to the door of the cell, Beckwith

could see by the dim light that the mysterious envelope was unaddressed.

He opened it.

Printed on a card with a pen were two names:

OTTO BEIFORD
JAMES B. MCCLENNAHAN

Later in the morning the Colonel came to the cage again. Beckwith gave him the card without comment.

"Jury-bribing!" the older lawyer exclaimed, as he gazed intently at the card.

This was not the veteran's first acquaintance with such tactics. The methods of those who employ them were not unfamiliar to him. At the inception of the case he had known that it was possible to circumvent the law with impunity. One avenue was open that was all-sufficient: a former court employe of temerity so great, of a nature so cunning and of a character so shifty that he would successfully corrupt a jury. There would be little risk. If the man were employed merely to investigate the jurors he would take it upon himself to "produce results," as the practical phrase ran in the claim departments of the great public utility corporations. Nor were such services

a very expensive commodity, for the price of a purchasable juror was little more than thirty pieces of silver.

The Colonel dearly loved success, but he did not worship it blindly, and such aid had offered no temptation. He felt deeply on this question. As a member of the bar he was a sworn officer of the court, and the pollution of the fountain of justice at its source was treason.

The card incident, however, presented a somewhat different aspect. Here, apparently, was a chance to secure friendly jurors through influences to which he was a stranger. But was his client a stranger to them? The temptation could not be greater! Still he had no proof that Beckwith was culpable, and would, therefore, give him the benefit of every doubt.

"Assuming, then, that Beck is not mixed up in this, let us see where we are," he soliloquized. "My client's life is at stake! The infliction of the death penalty is indefensible, and the inclination is universal to meet injustice with injustice! And public wrong with public wrong! What view will *he* take? He is under a great strain. And whatever may be his attitude toward the present problem, can argument change it? Generally the will is subdued, if not subjugated, by

imprisonment, with its separation from the family, its weakening diet, lack of exercise, poor air, its loss of companionship and benumbing monotony. But is it so with him? Of one thing I am satisfied: his resolution, whatever it proves to be, may be shaken —once, perhaps—by a stronger personality in a superior relation. But as soon as he becomes aware of it he will steel himself, and the lapse will never be possible again. On the other hand, if he should spurn the advantage offered him, is it certain that his will is free under such heavy stress? If I should urge him to throw away this opportunity, I can't know that his mind has not become so ductile as to give consent from the mere force of my persuasion! In such a complication I may have a duty to the public paramount to my client's interest! Have I a right to set up my own ethical sense against his? And if my duty is not clear, should the fact that a human life is in peril determine the course to be pursued?"

It was an involved and troublesome situation, and the lawyer made up his mind to follow the Napoleonic precept—to sleep on it over night. But he did not go back to the Tombs until the detective agency, ad-

monished to use great caution, had reported upon the prospective jurors.

"The report sheds no light," he observed, as he placed his hand on his client's shoulder. "We will treat it as a case of bribed jurors. Now what are we to do? You have thought over it and slept over it—what do *you* say?"

Beckwith fenced:

"I don't see that it is necessary to do anything."

The Colonel scrutinized his client.

"But we must know now what we will do later," he objected.

"Let it go till the trial," rejoined Beckwith, impatiently.

"No, Beck, it is too serious! My idea is to reject the jurors, although I don't suppose both will turn up. And——"

"But *I* pay the bill."

The Colonel assumed a bantering tone:

"*You* don't think your *life* is in danger, anyway."

"But *you* seem to; and the penitentiary——" Beckwith shrugged his shoulders.

"I'm in a bad fix," interrupted the Colonel, running his fingers together and pressing them tightly

against his chest. "I'm in a bad fix! I've never yet had the help of a fake juror. To accept one is quite as bad as to fix one. It goes against the grain! *You* know! It isn't necessary to argue with *you* on this question. I wish I had known at the start that it would arise!"

The suggestion struck home. While the Colonel would not throw up the case if such a juror were accepted, his interest would lose its edge. But if all went well and the juror was one of the twelve, and should he do what seemed to be promised, poor service from his counsel would matter little—in the first trial. Suppose, however, there should be a slip! And if left to follow his own conscience the Colonel would be a colossus in the courtroom!

Presently Beckwith shook his head emphatically. No, there was too much at stake! And a prisoner's cry is "Help!"

"No, Colonel, you ought not to ask such a sacrifice —you might as well be in league with the District Attorney!"

"Rather than with the devil! I'm no saint—in private affairs—but a fundamental public question like this staggers me. If our country called you to arms you'd risk your life gladly. You take no greater

risk here, and your country is calling, Beck, just as loudly. I can see the thing as it is! I wish I were in your place!"

The Colonel paced the floor, violently beating one hand against the other.

"It is a question of whose ox is gored," Beckwith pleaded. "You're not in my place, and God knows I don't want you to be. I can't express my gratitude for all you have done for me, but don't ask the impossible!"

"The shoe is on the other foot. *You* ask the impossible. Lawyers must respect the law! If I could give up the case——"

"Don't mention such a thought, by all that is human," exclaimed Beckwith, rising and clutching his counsel's arm. "My wife! And mother! And boy!"

The Colonel looked out through the grated door. A slight pallor of weakening purpose crossed his cheek. A moment later he drew the white hand of the prisoner into both of his and asked softly:

"Shall we submit the question to them?"

Beckwith flinched.

"Certainly not. They have trouble enough," he protested.

"You would not have a secret from them now?

Come, I don't want to press a matter so grave, and, as far as we can do so, I *must* be relieved from the responsibility of deciding. You know my views. Think it over again and decide it; but, remember, it must be *your* decision—not mine!"

The Colonel was bending under the load. He now had a new subject for reflection. Assuming that his client had nothing to do with the bribery, was guilt a factor in his manifest inclination to accept the jurors? He did not feel intrenched in his position as he looked back upon what he had done; but, seeking for a reason to fully justify himself, his mind carelessly whispered to his conscience: "If guilty, he ought to be made to take all the risks, for it was a murder, if murder it was, cold-blooded and deliberate, with an ample *locus pœnitentiæ*."

As the time set for the trial approached, Beckwith consulted his counsel more frequently, but never on the matter of the bribed jurors. A little look of triumph, suggesting a sense of security, coupled with a setting of the jaws, met the Colonel whenever mention was made of the jury. It admonished the veteran that his client was at least no better than average

mankind in a supreme test; but he was glad to be rid of an unpleasant responsibility. The interviews were taken up with a consideration of numerous memoranda written by the prisoner upon separate sheets, ready to be classified, according to his custom. It would have worried Beckwith had he known that these precious sheets lay heaped in confusion on his counsel's desk, wholly neglected. But the Colonel appreciated that they were carefully thought out by one who had an angle of vision different from his own, and he mentally noted each one of them. Those of value he carefully stored in his memory in their proper places. And they were accurately indexed so that he could instantaneously use them without the distraction of consulting artificial aids.

The defense was not informed as to the exact testimony to be introduced by the State. There had been the usual preliminary examination before a magistrate, but the prosecution had brought out only such evidence as was absolutely necessary to prevent the prisoner's discharge—a safe course, for the magistrate religiously bound over every prisoner whom the District Attorney earnestly prosecuted. In preparing his defense Beckwith found imprisonment an embarrassing drawback, and he fretted daily over the con-

trast between his hampered helpers and the immense equipment of the State.

The two lawyers held many consultations in trying to determine in advance whether Beckwith should testify at the trial. They knew the dangers of the witness-stand, but they also feared the risk of a prisoner's silence, and they arrived at no final conclusion beyond a statement of Beckwith's:

"If they don't learn of the den I'll take all the responsibility of keeping off the stand."

CHAPTER XIV

Preparation

Under the velvet paw of the judge one can feel the nails of the executioner. —*Victor Hugo.*

All ages have abounded in lawyers and judges; there is no churchyard that does not contain their forgotten dust. But the jurist is rare. —*Charles Sumner.*

BECKWITH had another burden, for it was reported that Miss Hodgkin had employed Eugene Carpenter to assist the State. George carried the news to Colonel Sickles.

"You are a lawyer, young man?" the Colonel asked.

"Yes, *sir*," was the emphatic reply.

A puff of smoke cleared away, and the Colonel, looking out of the window at the passing crowd, spoke:

"The practice of the law is a calling of great possibilities for development and accomplishment, for good or evil. Its path is choked with temptations, and its disciples rise high or sink low. In time it becomes a profession, a business or a game. The profession, en-

nobling, inspiring, protecting, has made it possible to write grand pages of history. The business begins and ends with a livelihood. The game, oblique, insidious, undermining, is one of the most disintegrating of all the baneful inventions of the brain. Not wholly my words, but remember them!"

Eugene Carpenter had achieved a great local reputation. He combined with other talents singular gifts of oratory. Six feet in height and of faultless proportions; graceful in every movement; careful in speech, even in unimportant conversation; imaginative and dramatic: he was a commanding figure in a forensic battle. Born among the petted, his full development had been retarded by the influence of elegant surroundings and limited by the infirmities of his environment. With other foibles, he was proud of his shapely hands, strangers by heritage and habit to manual labor, and he was unduly careful of his over-manicured finger-nails—a combination of vanity and indulgence which gave birth to an affectation in many of his gestures such as jeweled fingers tend to produce, but too slight to be discerned except by a critical eye. To him the practice of the law was a game. His talents had become a commodity available to all purchasers.

As his ability became recognized, he represented with increasing frequency rich lawbreakers whose misdeeds were glossed by corporate forms and who required skill, but not inquisitiveness. His countenance had fallen under the inevitable influence of habitual thought, and had just begun to take on a suggestion that its owner was sly, but as yet this defect eluded the ordinary observer. As an advocate he had surpassing weight with juries, but in the tedious work of careful preparation he was ineffective, for he disliked details and customarily employed others to look after them. The qualities which he lacked were, however, possessed by the District Attorney, and Colonel Sickles well knew he would have a hard fight against this union of complementary talents.

Everything was now rapidly moving forward. The State had gathered in its witnesses. The defense had made the best preparation possible under all the circumstances, and the accused—friendless, imprisoned and ill cared-for, impoverished in health and property and name, with his life wagered on the result—was awaiting the unequal contest.

Matters had been growing worse at home. With the first note from the jail the suspense of the pre-

ceding weeks had culminated. While Alice maintained her self-possession, it was with a mighty effort. Beckwith's mother was nerved by a strong sense of duty, but her countenance reflected the dread which never left her. Apart from other cares, a sentence in the letter from the jail troubled her:

"Even if I were guilty, there would not be the least danger of their inflicting the death penalty on me."

Her son meant that he would take his life rather than be hanged!

Little of importance took place to relieve the tension of the household. Colonel Sickles had urged the necessity of jealously complying with their protector's injunction not to talk with anyone about the subject uppermost in their minds. But this was hardly necessary, for above everything they feared that information might leak out concerning the den and the experiments that Beckwith had been conducting. When he had fallen into the habit of spending his Sundays there Alice had prophesied that the den would be their undoing. Now she was ever fearful lest her ironical prediction should be fulfilled.

Visitors were not numerous. George was the only unfaltering friend. Aside from irregular calls, he came every Friday and took to the jail a large bas-

ket of laundry, for even in prison Beckwith was an unwavering apostle of clean linen. Besides this he had another source of comfort: the jail discipline did not exclude literature, and library books were so much in evidence about his cell that the guards were no longer curious as to their titles. Thus he had a few companions not subject to scrutiny.

Constant public comment upon his dual relation as director of the Bath Institute and as trustee under the Hodgkin will induced Beckwith to relinquish his directorship, and Alice with a parting pang sent in her resignation as a member of the women's board. Her heartache was but little mollified by a tender and sympathetic acceptance with genuine regret; and she tore up the note to give expression to her feelings.

"I will not add to his suffering," she said, "by grieving over the Institute and the riding club; but I could endure it all so much more bravely if I could only hear that hearty laugh once more."

Aside from the visits to the jail, some calls at the Colonel's office and a few small errands, the family remained at home. Their visits to Beckwith were more frequent, but less satisfactory, for they felt as time passed that his hopes were not so high, and he became more and more abstracted as the day

of the trial drew near. This experience was wormwood, but it was borne without a murmur.

"We must suffer for the common good," was the language of the letter from the jail. "We must suffer for the common good," the mother repeated; and these words Alice constantly clinched. But such philosophy and trust did not reach to Alexander. For days after his father's arrest he sobbed for the greater part of the time. As the dinner-hour approached he would seat himself by one of the front windows, longing and watching. Evening after evening, when told his father would not be home, the boy refused to be consoled, and he never became reconciled to the separation.

Miss Hodgkin was not idle. Malice completely possessed her. The ashes of her uncle rested in Greenwood Cemetery, but his grave was uncared-for, unmarked and unthought-of in the fever of revenge. In the District Attorney's office, on the streets, with her counsel, under all circumstances she had one idea —to enlist public sympathy and stir up public passion. In this she succeeded. She always gave a willing audience to the reporters. Saying little, she managed to fill them with a conviction of the great

wrong that had been done her, and these interviews added fire to the stories in the newspapers.

The machinery of the State, oiled and polished, was now in readiness for its work.

The prosecutor was busy pondering over the signed statements of the witnesses. He had talked with all of them and knew what they would say. His was one purpose—success. So long had he been among criminals that in his eyes everyone charged with crime was guilty. Against him under the law were judge and jury and counsel. They must watch for innocence—his business was to convict. The eyes of the public were upon him. A whole city was ready to praise if he triumphed—mortification was his lot if he failed. And more than this, success was essential to his political aspirations.

In discharging the duties of his office he had been brought into close and confidential relations with the judges. In nearly every case of importance he had contrived to select the doomsman before whom the prisoner had been tried. So it happened that the judge who was to have charge of Beckwith's fate had been chosen by the State. This man was of long experience on the bench. He was old. The human

fires, which had never burned in him, but rather smoldered, had now gone out. Much learning and incessant study had contracted his heart. He was a mathematical judge. He made few mistakes, for the Court of Appeals uniformly affirmed his judgments. Therefore, he was a great judge. But he was a little jurist. And day by day he was dealing with flesh and blood and not with mathematical tables.

He was not a favorite with prisoners, who are ever hoping for a sympathetic judge—often a friend in need; the more so as, no matter how lenient or even culpable the man on the bench may be in the conduct of a trial, the State has no redress. If the umpire who was to preside over this contest had any sympathy it was for the community. His was the type of judge who can sentence a fellow-man to death in the impassive and impersonal manner which fits the decision of an abstract point of law. The District Attorney, of the same political faith, knew when he placed the case upon the calendar of this judge that he was solicitous about a renomination, for he had saved nothing during his long judicial career and had a tailor-made family to support. The State would request no favors, but it was certain none would be granted the defense. Yet under the ermine is always

the man, and if the ermined man should lean to the side of the prosecutor, it would be remembered at the party convention.

Justice is blind, but her instruments are human beings who not only see, but feel.

CHAPTER XV

General Sessions

Perhaps the most important of the protections to personal liberty consists in the mode of trial which is secured to every person accused of crime. —*Cooley.*

FROM the first Alice had felt that the trial would seal her husband's doom. As time passed the feeling became stronger, and it haunted her the more because her fear was a secret that was ever fluttering in its desire to be released. The daily letter, intended to inspire confidence, cheered her; and when she saw Beckwith he spoke the words of hope; but she could not rid her own soul of her melancholy forebodings. Nor was she allowed to forget, for Alexander was alive with questions.

Thus the days have passed and the climax of distress is at hand. The morning newspaper is eagerly devoured, and a blessing it is, though it lacerates relentlessly.

Dismal to Alice are the gray streaks of dawn. Heartbroken and sleepless, she watches at the window

the glow of the great furnace in the heavens. Its radiant energy warms myriads of other lives, but hers it chills. The moments drag with leaden foot, and at length the time has come when she knows her husband is to be summoned before inexorable Justice.

Beckwith, securely handcuffed to a fellow-prisoner, placed in a van with other handcuffed pairs, was driven to the Court of General Sessions of the Peace. Closely guarded, he ascended the iron steps and passed into the building. Swinging from an inner doorway he saw the familiar black sign with its gilt letters:

GENERAL SESSIONS
PART III

He was led into the poorly lighted courtroom. The ceiling was divided into numerous squares resembling inverted terraces, in the angles of which somber shadows were ever lurking. At the end of the room stood a row of benches filled with spectators, and a crowd was in the hallway hoping for admission. The clerk, immediately in front of the raised platform of the Judge, was busily clearing up his desk to be ready for the trial. In a corner was located the iron cage in

which prisoners were kept after being unmanacled. Into it Beckwith was thrust.

Court officers were hurrying hither and thither, and the prosecutor, engaged with Mr. Carpenter and his regular assistants, was reviewing the testimony to be introduced upon the trial.

Colonel Sickles was checking up a list of witnesses.

Reporters for the daily press were sketching preliminary sentences.

A slight hush announced the arrival of the Judge, solemn and frigid. Sitting in his great armchair, he gazed at the big clock until the hands marked ten.

Court was formally opened, and the Judge looked over the docket before him and raised his head:

"The People *versus* Miller—murder."

All eyes now sought the defendant.

The prisoner's cage was unlocked, and Beckwith, closely followed by officers, moved forward. He could be seen by all. So long a stranger to the sun, he was pale. He had lost weight, but stood erect and firm. There was no sign of expression in his countenance. The mask he had schooled himself to assume in the causes of others he carried with him into his own. As he took the chair reserved for him, just behind his lawyer, and clasped the extended hand, the Judge, in

remembrance of other days, looked down and gave a slight nod of recognition.

Among the forces of the State sat Miss Hodgkin, in deep mourning, wielding a handkerchief with a wide border of black.

"Beckwith Miller at the bar," called the clerk in a loud tone of authority.

The prisoner stood up, and Colonel Sickles spoke almost inaudibly to the clerk.

"Call a jury," commanded the Judge.

Scores of talesmen were excused for various causes, many of the reasons having been developed by a force of detectives employed by the State to investigate their antecedents, records and characteristics—an advantage not open to Beckwith for lack of means.

Eleven were at last accepted, and the clerk called another name:

"James B. McClennahan."

Beckwith moved his foot to the Colonel's in secret signal.

The District Attorney examined the man with care, vainly endeavoring to develop a cause for challenge or some attitude of mind or bias adverse to the State. He advised with Mr. Carpenter, and they called to their aid the assistant having in charge the investiga-

tion of the panel, who went over with them the favorable report upon the juror, at the same time insistently urging that the man be accepted.

"The jury is satisfactory, your honor," the prosecutor announced.

The prisoner and his counsel now consulted, and the attorneys for the State met for a moment in the back of the room.

"I don't feel at ease regarding that juror," whispered the District Attorney. "It is the first time in years that I've accepted a man on a jury against whom I've had an intuitive prejudice. But my assistant is keen and seems sanguine. The fellow answers the questions well, as you say, but I'm doubtful."

While the defense was contentedly asking the juror some harmless questions, the District Attorney continued to study him. During a brief recess he called his colleague to one side.

"I tell you I'm afraid of that man," he said. "You noted how strongly my assistant urged him upon us. How do you feel about it?"

"You know your assistant better than I," replied Mr. Carpenter. "It struck me at the time that he was officious—nothing more. I'm afraid of the juror, however."

The prosecutor scowled. "My conviction grows stronger every minute," he muttered. "We have made a botch of the whole case."

So felt Beckwith! Fate had placed in his hands a key to his dungeon by the aid of which he might ultimately be free! Here, then, was the beginning of the end. And the boasted glory of trial by jury was dissolving in this particular case. Underneath the mask the sense of triumph dimly lighted his face, while a frown of resignation, commingling with the hope of victory, slightly blanched that of his counsel.

A revolver shot rang through the corridors of the building.

A crowd of men and women burst into the courtroom.

"I said I would kill him!" shrieked a woman outside the door. There was a scuffle, and as this ended the crowd surged back again, taking the courtroom spectators with them.

It was an episode in a protracted legal contest with which the bar was familiar. A woman, too industriously pursued by an attorney, had turned in a mad fury upon her persecutor. The excitement drew the lawyers in the courtroom together—all but Beckwith. The shot flashed to his imagination the faces of his

wife and mother. He recoiled as if the bullet had struck him. Under the mask the expression changed. The mask fell off when the Colonel again reached his side. Then Beckwith clutched his counsel and gave a low but tense command.

Order was now restored, and the Colonel rose.

"We challenge the juror peremptorily," he exclaimed.

"The fool!" ejaculated the prosecutor under his breath.

Concerning the excused juror the reporters could learn nothing that would satisfy the curiosity of the public. It was surmised that the man was suspected, and general interest was aroused, but the actual significance of the incident remained a riddle.

Another juror was chosen and the panel was completed just as Saturday's sun was sinking.

The morrow was a sorry Lord's day for the prisoner. After a visit from his family and a short conference with his lawyer he seated himself in his cell, meditating upon the pending lottery in which he had so much invested. He was aware that his situation was not free from danger to his liberty, even if his life were not in jeopardy. But his family falling to the lot of poverty and want was a picture upon

the wall of his solicitude which no philosophy could efface. His vitality was bending under constant travail, but his face and manner told the true story: though his oaken will might be wrenched and the fibers torn and twisted, it would never break.

In the Miller home evidences of broken purse-strings were visible. Alice had secretly stowed away a few pawn-tickets, and a darned stocking was peeping out of Alexander's shoe.

The ghosts of fear stalked about the house by night and by day. The family knew that an acquittal would mean a ready grasp of the hand and warm congratulations; but they knew, also, that a conviction might rob them of all they prized in life. And they marveled that so much should depend upon the chance of a verdict.

On the convening of court the District Attorney rose to make his opening address to the jury. A murmur spread through the room and the eyes of all turned to the door.

Beckwith left his chair.

His wife, mother and boy entered.

It was manifest that Alice was nerved for the ordeal, but as she greeted her husband in the presence of those

who had the power to kill him, for an instant she lost self-control. Alexander clung to his father, crying loudly:

"My father! My father!"

With lips pressed firmly together, Alice took her seat. Beckwith kissed Alexander tenderly and passed him on to the grandmother.

The District Attorney proceeded. He laid before the jury, in language chosen to arouse their prejudices, most of the story of the State. He was laboriously accurate, clinching each fact securely in the minds of the jurors before he hammered the next, and in concluding referred to the popular statue of Justice, warning the men before him to place a fillet over their eyes, after the symbol of the statue, and to shut out from sight all elements of the case which might touch their sympathies, at the same time conjuring them to remember that they were the guardians of the law, not sentimental friends of the prisoner.

The force of the address had been broken by the arrival of the family. It was, however, strong and prudent, although devoid of dramatic effect. The District Attorney lacked oratorical instinct, and even had he possessed every other qualification, could never have become an orator, for one essential he had not

inherited—a fitting voice. His enunciation was harsh when it was not monotonous.

A slight movement of chairs and an air of expectancy swept through the courtroom, forerunning the introduction of evidence. Beckwith for an instant caught the eye of his wife and exchanged a secret thought:

"They have no knowledge of the den!"

CHAPTER XVI

The Case of the State

It is an admirable law which ordains that every man shall be tried by his peers; for when life, liberty and fortune are in question, the sentiments which a difference of rank and fortune inspire should be silent. —*Beccaria.*

AFTER Mr. Hodgkin's death had been duly proved, the trial got under way and facts rapidly took the form of evidence.

Beckwith's bank account for his individual use had been nominal, but he had kept another, marked "Special," in which over $12,000 was on deposit on the day of his client's death. The checks deposited in this account had all been payable to Emanuel Hodgkin and indorsed in his name by the accused.

The homestead mortgage had been long overdue, nothing but the interest having been paid, Beckwith having been invariably in arrears and habitually pressed for money.

Mr. Hodgkin's intimate relations with the prisoner were established; his heavy build; his age, sixty-two;

his unintermittent use of tobacco; his devotion to the bath.

The trial halted, and the District Attorney watched significantly the entrance doorway while his assistants joined in the maneuver. Beckwith turned a furtive glance in the same direction.

Self-possessed but modest, Robert, the negro, strode into the courtroom.

He showed that the world had treated him kindly while he had been harbored safe from any influence of the prisoner. As he seated himself his eye met Beckwith's. Perceiving the change that had taken place in his former patron, his lips parted for a moment with irresolution.

It had been expected that tremendous influence would be brought to bear upon Robert. According to report, a notorious detective, lured by Miss Hodgkin's purse, had been coaching him; moreover, the oleaginous chief of police had taken him under his personal charge. Beckwith had been fearful that the chief would play havoc by subtle suggestion and by cunning and persuasive embellishment of the facts. He well knew that by frequent repetition a story can be drilled into the mind so that a witness will believe it and the most skillful cross-examination will fail to

shake it. To be prepared for this contingency he had reviewed with his counsel, again and again, in every detail, the events of the fateful afternoon.

Beckwith eagerly devoured each word of the negro's evidence, and at its close prisoner and counsel looked at each other in keen admiration, for the witness had told the truth and nothing but the truth.

The attorneys for the State now sprung another sensation—the theatrical advent of one of the Pittsburgh chemists. This expert minutely described his investigations. He and his colleague had scraped Robert's boat at the spot where the evidence showed Mr. Hodgkin had been sick and also at the opposite end of the boat; and they had secured similar suspected and unsuspected scrapings from the floor of Wattengurter's bar-room. Each scraping had been divided between them, and they had pursued their investigations separately. Decoctions of the suspected material had been administered to one set of frogs, and a recognized digitalin solution to another set. These frogs had all died quickly with like symptoms of digitalin poisoning. On the other hand, decoctions of the unsuspected scrapings given to other frogs had produced no effect.

Various experiments were recounted, all of them

proving the presence of digitalin. A reliable test for nicotine, on the other hand, repeated several times, had failed to indicate that poison. This test had also consisted in administering the suspected decoctions to frogs. With nicotine, it was shown, the animals are seized with clonic convulsions and other characteristic symptoms, all of which had been wanting.

These and other tests, together with the symptoms described by Robert, fixed the witness' opinion that the deceased had died from the effects of digitalin poisoning. He was forced to admit that if the poison was administered while Mr. Hodgkin and Beckwith were at lunch, and particularly if taken at the hotel under the willow tree, death had ensued in less time than usual. But he affirmed that habitual users of tobacco succumb readily and speedily to other poisonous drugs, as they do to any stress of extreme climate, protracted labor or great emotional excitement. The advanced age and heavy build of Mr. Hodgkin were also factors.

The District Attorney struck a dramatic pose, and after an impressive pause proceeded:

"Has digitalin any distinguishing characteristic among poisons?"

"It has."

"What is this distinguishing characteristic?"

"There is no chemical test for it, such that it can be detected by analyzing the contents of the stomach or other organs."

As expected, this evidence produced a sensation, and the examination was not resumed until after another pause.

"What is the fatal dose of digitalin in powder?" he then asked—"a dose that will kill an adult human being?"

"The minimum lethal dose is not known definitely."

"Would a capsule large enough to contain two grains of quinine hold enough digitalin in powder to kill a man?"

"Enough to kill three men," was the laconic reply.

The prosecutor again paused.

"What is the color of digitalin in powder?" was the concluding question.

"White," answered the witness.

Beckwith became so much interested in the recital that more than once he lost sight of his critical situation. Though he and the Colonel had been over the ground in advance, as opportunity offered, he now explained and coached, but in a guarded way, for the eyes of the jury were upon him.

The evidence of the chemist was duplicated by his colleague, and other experts invaded the court-room with their learned guesses. Minute proof was made of the scene at Wattengurter's and the events of the coroner's inquest. The cremation was also described, with its inconsiderate haste.

A smooth-shaven man was called to the stand. Beckwith pulled the Colonel's coat-sleeve until he was within whispering distance.

"That's the waiter at Maltby's!"

"In the name of God! They've found him! They've got everybody!"

"After you had served the prisoner and the deceased," asked the District Attorney, "did you have occasion to go to their room again?"

"Yes, sir."

"For what purpose?"

"I fetched the bill."

"What were they doing when you entered?"

"Talking, sir."

"Anything else?"

"Yes, sir—the prisoner had in his left hand a small box."

"Go on."

"And in his right hand he had a capsule."

"Describe it."

"Like any two-grain quinine capsule, sir."

"Filled or empty?"

"Filled, like you get them in drugstores."

"Could you tell the color of the substance with which the capsule was filled?"

"White, sir."

"Are you certain?"

"Positive."

"Why are you positive that it was white? Did anything occur that caused you to remember it particularly?"

"Yes, sir."

"Tell what it was and all the circumstances."

"Well, sir, when I opened the door to go in with the bill, the prisoner was pushing the capsule across the table to his friend. It rolled from his hand a bit on the table and it was easy to see it was white. There was no tablecloth, and the table was dark wood."

"What further did the prisoner do with the white capsule?"

"He made a sudden move and grabbed it and pulled it back under his hand."

"Did you see the white capsule again?"

"No, sir."

"What did he do with the box?"

"He put his hand over that, too."

"How much longer did you stay there?"

"Until the bill was paid."

"Who paid it?"

"His friend."

"And then you left?"

"I did, sir."

It was proved that within a month of the tragedy Beckwith had purchased from a drugstore near his home a number of poisons, among them digitalin in the form of a white powder; and that about six weeks prior to the tragedy he had bought a recent treatise on the subject of poisons which was now fully identified and carefully guarded by the prosecutor.

"How about the book?" impatiently whispered the Colonel.

"That's true," admitted Beckwith, as he studied his counsel's face.

Was the Colonel dismayed at the completeness of the evidence for the State?—or was he now convinced of guilt?

Beckwith's impulse was to seek comfort from the eyes of Alice, and he turned so that she might be in

his line of vision. She was looking full into his face, but his courage failed him.

The will was introduced, and Mr. Carpenter read it with an insinuating emphasis on its singular provisions, calculating to impress upon the jury the improbability of anyone making such a will without the influence of another and compelling mind. The codicil was treated in a similar manner.

With an endeavor to create another sensation the clerk of the Hotel Leopold was questioned. He had unlocked the door of Mr. Hodgkin's room as soon as he had heard of his death and had found a letter. This letter he produced at the direction of Mr. Carpenter. It was triumphantly submitted to the Colonel, who passed it in turn to his client. They read it with an air of indifference, and it was carefully marked for identification and solemnly given to the prosecutor for safe keeping.

Beckwith drew a long, weary breath and sat a little less erect.

The witness resumed. He had found, also, a book. Upon the flyleaf was an inscription admitted to be in the handwriting of the prisoner. This was read in a loud voice:

"*To Emanuel Hodgkin. From B. M.*"

Mr. Carpenter turned the back of the volume toward him and faced the jury. An impressive silence spread over the courtroom. After a pause he exclaimed:

"Gentlemen of the jury, the title of this book is 'Cremation.'"

Then he gave the book into the hands of the jury.

It was shown that it had been in Mr. Hodgkin's possession long prior to the making of the codicil.

A witness named O'Connor was duly heralded by the State—an unwitting subject of still another contrived sensation.

"Who's he?" asked the Colonel, impatiently, but under his breath.

"Have no idea—none whatever!" answered Beckwith.

The man upon the stand related how he and a companion named Murphy had gone to the Miller homestead, representing themselves to be plumbers, and had viewed the basement. A detective named Walsh had admitted them to the house next door, under cover of which they had tunneled into the brick cellar of the prisoner's home, where they had found a room with a small stove, a large table, the top of which was carefully oiled, a stationary washbasin,

some shelving upon which were numerous bottles partly filled with fluids or powders, a hanging shelf and many odd-looking appliances and devices. Having placed in baskets everything movable, they had kept their treasure in sight continuously until it was handed to Professor Longworth for examination. At the conclusion of his evidence the witness identified the contents of the baskets, including the treatise of which the District Attorney had been a jealous guardian.

The officers of the law watched the prisoner closely, but they discovered nothing uncommon in his expression; nor were they able to perceive any look of concern in the faces of his wife and mother, for the women had been warned not to appear surprised, no matter what might be proved.

The evidence of O'Connor was confirmed by his companion, Murphy; also, with important additions, by Walsh, the detective. The recent work on poisons the detective had found lying open at a page which treated of digitalin and told of its deadly character. And he had noticed particularly that the bottle marked "Digitalin" was almost empty.

"As a detective experienced in such matters, you were aware, I suppose, that most homicidal poisoning

is committed by women or on account of women?" asked Colonel Sickles.

"I am," replied the witness.

"Tell the jury, then, all that you did to find the woman in the case," demanded the questioner.

Greatly embarrassed, the detective was driven from one position to another and finally admitted that he had merely hunted the prisoner down with no thought as to his guilt. It also transpired that he had been paid by Miss Hodgkin.

The evidence concerning the bottle was disquieting to Beckwith. It seemed strongly inculpating. If he had used up the digitalin within a month before the death of his client he must have made frequent experiments with it; and there was involved, also, the suggestion that some of the drug had been taken out to fill the suspected capsule. The Colonel held the same view and assailed the witness in a remorseless manner, but no great doubt was cast upon the detective's story.

Professor Longworth on the stand commanded close attention. For thirty years a college instructor in chemistry, he had devoted much time, in and out of his laboratory, to the study of poisons. His opinion was that Mr. Hodgkin had died from a dose

of digitalin. He knew the prisoner, who had called on him five or six times—always to inquire about some poison.

The witness had received the baskets found in the den. He explained to the jury the nature and uses of the contents, which included everything necessary for a small laboratory devoted to toxicology. The bottles had been carefully examined, and the powders and liquids had been analyzed and tested. They corresponded with the labels on the bottles and embraced substantially all ordinary poisons.

Mr. Carpenter picked out a bottle nearly empty, containing a white powder.

"What is this bottle labeled?"

"Digitalin," answered the witness.

"And what is the substance in the bottle—what there is left of it?"

"Digitalin," the Professor repeated.

The bottle was gravely passed over to the jury for their inspection.

This was an old trick, well established in metaphysics—exciting the imagination by an object alleged to have been an agency in the commission of a crime—most effective when the object possesses a mysterious power. It had been used against Beck-

with's clients. Then he had deemed it unjust; now it was clearly inhuman.

The State was rushing the case dramatically to a close.

Mr. Carpenter asked his colleague for the letter identified by the hotel clerk. It was dated the day before the tragedy. With studied deliberation he read it to the jury:

Mr. Emanuel Hodgkin,
Hotel Leopold, City.
Dear Mr. Hodgkin:
Matters of importance have arisen which demand action. If you can, please call tomorrow at noon; if not, please advise.
Faithfully yours,
BECKWITH MILLER.

CHAPTER XVII

Wife and Mother

Corrupt rulers may pervert the constitution; ambitious demagogues may violate its precepts; foreign influence may control its operations; but while the people enjoy the trial by jury, taken by lot from among themselves, they cannot cease to be free. —*Edward Livingston.*

IT was a source of great grief to Miss Hodgkin that she had been denied the satisfaction of more actively aiding a conviction. The District Attorney deemed it wise to have her use her black-bordered handkerchief in the courtroom, but kept her away from the witness-stand. He could have invented some pretext for calling her, but the defense would be sure to uncover her bitter and malicious spirit, and that might lose the case.

The prosecution had greatly increased the strain of the trial and embarrassed and perplexed Colonel Sickles by its willful omission to mention any knowledge of the den and by delaying the introduction of the evidence in regard to it. Worry and night-work

were telling upon him, and he looked jaded when he began his address to the jury, in which he outlined the defense.

His facts were at command, and he handled them effectively and in an agreeable and apparently ingenuous manner.

He had a way of taking the jurors into his confidence that was admirable, and in this instance so deftly done as to amount to genius. At the same time he fell just short of giving full details, so that he closed with the sympathy of the jury deeply enlisted and their curiosity thoroughly aroused. They also believed that he had made a fair statement and felt a sense of personal obligation to him.

The defense was now under sail.

Mr. Hodgkin was brought to life again and his tobacco habit reviewed. The story was told from different angles. He was an incessant and excessive smoker and addicted to chewing his cigar-ends. This constant, immoderate and double use of tobacco was notable on his last day. And on that morning he had eaten at his hotel two dishes of peaches; they were new in the market and not ripe; they had been carelessly stored, with more than a possibility of contamination; and four other guests who had eaten

of the peaches on the same morning were stricken with cholera morbus, although not fatally.

Witnesses to the good reputation of the prisoner were numerous—members of the bar, the Rector of St. Andrew's Church, and clients and neighbors. Alice had aided George in subpœnaing these witnesses. She had aroused a sympathetic interest, and a number of them had gone with her to the office of Colonel Sickles.

They were followed by experts on the subject of poisons who were asked long and involved hypothetical questions, written out beforehand and read to them. The specialists were of the opinion that Mr. Hodgkin had died from nicotine poisoning combined with cholera morbus. But they could not account satisfactorily for the experiments of the chemists.

The District Attorney, in reading up for the trial, had learned that in a celebrated case in France a physician was convicted of poisoning by digitalin, in part on testimony similar to that of the Pittsburgh chemists, and was subsequently executed. Several times he attempted to bring out the fact, but his opponent, likewise familiar with the case, adroitly stopped him, greatly to Beckwith's relief.

The defense now called a number of witnesses who

were acquainted with the detective Walsh and knew his reputation for truth and veracity to be bad.

As to one witness, apparently not more than fifty years old, a bare rumor had reached the State that he had been in Van Dieman's land. The prosecutor knew that transportation to that island had been discontinued thirty years before, and it seemed certain that the man had been a visitor there rather than a convict. Nevertheless, in concluding his cross-examination, he raised his voice, and, speaking with rapidity, asked:

"Were you ever in Van Dieman's land?"

The witness, astonished, answered promptly, "Yes," and the Colonel, following the impulse of the moment, failed to probe an innocent circumstance and left the jury in the belief that the man was a felon, which cast further suspicion upon his fellows, already proved to be irresponsibles.

Alice walked quietly and resolutely to the clerk's desk and was sworn. It was apparent to all how delicate she was, and a feeling of pity spread over the courtroom, while her husband was rigid with suppressed emotion.

Her testimony was simple, free from resentment,

and spoken with womanly grace in a gentle manner. Considerately she was led over the steps of her story without a slip.

The District Attorney cross-examined about the den, but he was brief, for he knew that with such a witness he was using double-edged tools. Moreover, he could argue to the jury that a wife—any wife—under such conditions would swear to nothing that would injure her husband.

The Colonel again took George into his confidence. "A wife's evidence," he said in an aside, "is not worth much in itself, but her presence before the jury counts—it tends to palsy the hand that would sign a hostile verdict."

The advantage thus gained was followed up. Mrs. Miller was the next witness. The benign face unmistakably bespoke a saintly character, and her dress told of an earlier sorrow.

Beckwith had no fear that his mother would make any misstep. The tension was relaxed, and he bowed his head slightly. It seemed like reverence.

Alice's heart melted. She drew over her face a thick veil, but it did not hide her tears.

Mrs. Miller was questioned sufficiently to corroborate briefly her daughter and to impress the jury

with her strong personality. The Colonel then challenged his opponent:

"Mr. Prosecutor, ask the lady anything you please."

He was afraid he would be taken at his word and that the mother would be confused by a long examination, but the District Attorney was cautious and did not ask a question.

During these scenes Alexander, agitated and puzzled, looked on inquiringly from one participant to another, vainly searching for light.

These incidents passed without any demonstration, and the trial proceeded. But the hearts of the jury were touched and their resolution, for the moment at all events, was shaken.

Colonel Sickles felt a profound compassion for the distressed family and regretted that they were doomed to pass through such an affliction, but he was pleased with the situation.

CHAPTER XVIII

A Dangerous Witness

And now good countrey men let vs (I pray you) consider, what honour or policie can mooue vs to imitate the barbarous and beastly maners of the wilde, godlesse, and slauish *Indians*, especially in so vile . . . a custome? —*James the First.*

DOCTOR RICHARD BURKE was regarded as the leading medical witness of the city. He was an enthusiast. The side which employed him had an assistant counsel, for he would coach the lawyer in the case and advise him how to examine not only himself, but every other medical witness. He had a fine presence, a positive manner, a thorough knowledge of the subject under investigation, absolute composure, and a not overtowering moral sense. His conscience was not elastic, but it would stretch a little in warm weather.

He was dangerous.

He had testified in other cases presided over by the Judge, and the two exchanged bows, in a formal and absent-minded manner. Mr. Carpenter looked envi-

ously at the witness, for the State had tried to employ him, at the suggestion of Miss Hodgkin. But, whatever his faults, the Doctor had no great love of money and much preferred to testify for the defendant in the present case, though the compensation was nominal. It would be some satisfaction to aid in proving the prisoner innocent, but to be a party to the strangulation of a fellow-being seemed grewsome business.

The Doctor detailed his education as a physician, his numerous hospital connections and his special study of poisons. He then explained the nature of nicotine.

The effects of smoking, he testified, are dependent on a number of conditions—the most important, the strength of the weed, that from Virginia being fully three times as strong as that from Havana. In anticipation of this evidence it had already been shown that Robert's tobacco was from Virginia, while Mr. Hodgkin habitually used Havana cigars.

Constant smokers of mild tobacco accustom the system to its use, but are poisoned by a stronger variety, and sometimes by a different kind.

It had been disclosed in evidence that Mr. Hodgkin did not expectorate while smoking. Referring to this

phase of the habit, the Doctor explained that tobacco is excreted with little change by the kidneys and salivary glands, and that when the expectoration is restrained that avenue of excretion is cut off and the smoker retains more of the poison.

Smoking and at the same time chewing the end of the cigar, he said, was unquestionably the most injurious form of using the weed.

The Doctor went on at great length, piling up fact upon theory, giving with elaborate detail the disintegrating effects of tobacco and indicting it for nearly every crime against health known to medicine.

The long recital impressed the jury; even the Judge was interested, particularly as he knew from the Doctor's reputation that he had not made a statement which he could not fortify by citing an authority or recounting an experiment. But this evidence was merely preliminary. The witness reinforced it with a masterful application of medical knowledge to the circumstances attending Mr. Hodgkin's death, though the forms of law rendered it wearisome.

With nice discrimination he specified the symptoms common to poisoning by digitalin and by nicotine, graphically describing the similar action of the two poisons and demonstrating how like the action of

digitalin is that of nicotine assisted by cholera morbus.

Finally it was the Doctor's opinion that Mr. Hodgkin had died from the effects of excessive smoking and the habitual chewing of cigar-ends, aggravated by cholera morbus.

At the conclusion of his testimony jurymen and spectators marveled at the readiness of the man, whether or not they were convinced.

The Colonel was visibly fatigued. As he had expected, his two opponents, for the very purpose of sapping his strength, had kept him under pressure for most of the trial. No sooner had he finished combating one than the other entered the lists. This alternating warfare had been pitiless, and the strain was telling on him. But the Doctor was as fresh as when he went upon the stand.

Beckwith sat easy in his chair. He knew the Doctor would come out victorious in matching wits with the District Attorney, and he set much store by the expected encounter.

The prosecutor addressed the witness in a bantering tone. Smiling, he asked:

"*You* smoke, do you not, Doctor?"

"Yes," was the quick response.

"That is all," exclaimed the questioner with a satisfied air.

The Colonel was on his feet instantly.

"How *much* do you smoke?" he queried.

"Very little," was the prompt reply. "I used to be a great smoker, but some years ago, when the attention of the medical profession was called to this subject, I studied it, made some experiments and observed my patients closely. As a result I became alarmed, and after a hard struggle I abandoned the habit."

The noon hour was at hand, and a recess was ordered. After the jury had withdrawn and while the Colonel was collecting his papers he looked at the District Attorney.

"Give me a cigar!" he demanded.

The prosecutor smiled, drew a cheroot from his pocket and passed it across the table with mock stealthiness. His opponent lighted it, between puffs grunted, "Cheer up," turned on his heel and left the courtroom.

CHAPTER XIX

Explaining

The three most difficult things to do are to keep a secret, suffer an injury, and employ one's leisure. —*Voltaire.*

BECKWITH assumed the role of witness with composure, although not blind to the embarrassments of explaining. While he was perfunctorily answering the preliminary questions the difficulties of his situation piled up before him. His life was at stake. There sat his family, who would suffer from an adverse fate long after his own sufferings were ended, and the ties that bound them were so close that to look into their eyes would take the edge from his courage. There were his twelve peers sitting in judgment, and each had imbibed from popular prejudice a suspicion of lawyers in general, even though full confidence was reposed in the lawyer of his own selection. The Judge was stone. The powerful machinery of the State was complete and perfect and merciless. His own position was an awkward one: used to asking questions freely, he now had to answer

under restriction. He retained his outward calm, but could feel his heart pumping madly.

Mr. Hodgkin and he—so ran Beckwith's story—aside from the most intimate professional relations, had been social friends, fond of fishing, and had liked to be by themselves. Learning of his companion's interest in cremation, he had bought and given him the book on the subject found in his room at the hotel.

The will and codicil had been drawn by him in the natural channel of professional employment without persuasion of any kind, and charges for the services had been settled in the ordinary course of a lawyer's practice.

He had not administered poison to Mr. Hodgkin and had no knowledge or information or belief that anyone else had done so.

His interest in the subject of poisons had been aroused by a young medical student named Bowers, who had been a friend and boarder at his home after his father's death. Assisting the young man in many of his experiments and investigations, he had gradually become fascinated with that line of study. Bowers had introduced him to a former proprietor

of the drugstore, from whom he had procured the poisons—a privilege continued by the new owner.

The digitalin bottle had not been almost empty. He had attempted to use a dose of it forcibly on a cat, but the animal had been so strong and vicious that the design was abandoned, after the poison had been knocked out of the spoon in which it was being administered. Since then he had not tried any experiments with the drug, and the bottle had been full when last seen except for the single spoonful. He had not noticed it particularly, but would have been sure to do so had it been nearly empty.

The recent treatise on poisons, when last used by him, had not been left open at the page where digitalin was discussed. His books had been arranged in order, away from mice, on the small hanging shelf referred to by the witnesses, and after using them he had always been careful to stand them up.

Colonel Sickles now came to a nice point in the evidence. He calculated that if his client should admit a familiarity with poisons in general the State would be sure to make him confess a knowledge of digitalin in particular; and if brought out in a dramatic way, and duly emphasized, it was likely to

produce an unfavorable effect upon the jury. To minimize the difficulty, he developed in an off-hand way that Beckwith was familiar with the characteristics of a number of named poisons, and digitalin had an inconspicuous place in the list. The Colonel went a step farther in the same direction and showed, casually, that Beckwith had known for years that there is no chemical test by which digitalin can be detected in a dead body.

Another incident was treated in a similar manner. At the coroner's inquest Beckwith had told what his friend had eaten at his last lunch, but had not named the place—Maltby's. This omission, he now claimed, was a mere oversight of which he had been totally unaware until it was called to his attention long afterward.

The letter to Mr. Hodgkin had been written two days after an interview in which he had complained about fees. Although their relations had survived other disputes, he had come to realize that he would lose his client unless some concessions were made, and he had reluctantly written the letter. At their meeting a reduction in his scale of charges had been made with the grace of necessity; Mr. Hodgkin had

seemed satisfied, and they had spent the afternoon together.

"What were the matters of importance referred to in your letter?" asked the Colonel with pretended carelessness.

"A tenant had threatened to quit—but I admit this was an excuse more than a reason. I wanted to make sure of seeing Mr. Hodgkin before he put his business into the hands of another lawyer."

This proof, also, the Colonel had thought best to develop himself.

"Do you know whether the letter was copied in your copybook?"

"It was not," Beckwith replied.

This was still another circumstance which the Colonel preferred to bring out, for he was aware that the prosecution had learned of it at the time of the burglary and would be sure to probe such a sensitive spot.

The occurrence at Maltby's was treated with care. Beckwith acknowledged that he had had the small box with the single capsule, but denied the waiter's story that he had pushed it across the table or drawn it back or concealed it. The box, originally filled with cap-

sules of quinine, had been in his desk at the office, all but one capsule having been used. Feeling a little chilly, he had put the box in his pocket, and he happened to have the capsule and the empty box on the table; he had been merely playing with them when the waiter came into the room to collect the bill. Later, on the way to Florence's Hotel, he had swallowed the capsule and put the box back into his pocket without giving it any thought. Finding it there when he was in the boat, he had thrown it into the water. And he stated that he customarily took capsules or pills without anything with which to wash them down.

The Colonel regretted that his client was not denying the story altogether: there were too many things to explain. He fairly covered the incident and then hurried on to Robert's story, every detail of which was retold. The two versions did not differ in any material respect.

In concluding his testimony Beckwith affirmed that he had requested the Coroner to make a *post-mortem* examination if the physicians were in doubt. He explained that from his knowledge of nicotine poisoning and what little information he had of cholera morbus he had believed at the time, and had

continued to believe, that the physicians were correct. He then knew that other drugs of the same family as nicotine produce many symptoms similar to those resulting from that poison, but the opinion of the physicians was consistent with the more natural cause of death, and he had not considered exceptional causes.

A big sigh of relief slipped from Alice when the narrative was ended. She was confident that all must perceive that her husband was innocent. All his torments passed swiftly in review before her mind as she noted how fearlessly he faced the men who were seeking his life. Beckwith's white lock, which had early kindled a smoldering suspicion in the minds of the jurors, now became a victor's plume, and Beckwith himself was transformed into her Henry of Navarre.

The illusion was not long indulged, for the District Attorney, well knowing that anyone in Beckwith's situation is at a disadvantage, relentlessly plied him with questions, taking advantage of every opportunity to give his answers a damaging color.

The letter was the first subject of inquiry. The disagreement claimed to be the occasion for writing it was carefully investigated—its substance as well as the attendant circumstances. Beckwith confessed that he rarely failed to copy a letter in his letter-

book, but the one in question he had regarded as personal and the idea of copying it had not occurred to him. The prosecutor made much of this admission and protracted his examination in regard to the incident, but the Colonel did not dare to interfere.

Alice sat straight, her hands tightly grasping the arms of her chair.

Beckwith acknowledged that he had taken from his client's pocket after his death the letters it contained and had handed them to the Coroner, but denied that he had examined them until they were returned. He admitted, also, that at the first practicable moment he had taken possession of all the papers in the room of the deceased and that Robert had been in a position in the boat where he would have been able to see the box if it had been thrown upon the water. He granted, too, that the suggestion of taking a private room at Maltby's had come from him.

At a swift pace the District Attorney led the witness through a maze of technical evidence regarding poisons, boring into his knowledge of digitalin and nicotine and the significance of Mr. Hodgkin's symptoms. Beckwith became committed in so many ways that it would have been fatuous to deny that

he had known at the time that his friend's condition might have been the result of poison.

"Why was it, then," asked the prosecutor, "that you waited for your companion to urge going ashore?"

"While I knew," explained Beckwith, "that my friend *might* have been poisoned, I did not *believe* that he was."

He gave the same excuse for not trying to get an antidote when they had arrived at Wattengurter's saloon.

This evidence harrowed Alice, and it required every grain of her will power to stifle her fears.

The president of the bank had been told by Mr. Hodgkin in Beckwith's hearing that the account was kept in his lawyer's name merely for convenience. Beckwith was not indebted to his client at the time of his death, nor had he been at any other time.

"Your books and papers are open to the inspection of these gentlemen?" interjected the Colonel, rising suddenly to accentuate the question.

"Certainly," Beckwith replied.

The Colonel spoke in a low voice to George:

"Opportunities like that you have to grab quick!"

George assumed a blank look, as though the remark

were of no consequence, for fear the jury might gather from his expression a hint of what had been said.

The District Attorney showed by his manner that he appreciated the Colonel's strategy. He had examined the books and papers carefully and had caused them to be returned to the prisoner's office shortly after the arrest, but he was in no position to refer to the fact that the place had been burglarized in the interest of justice and thus disclose to the jury the farce of the witness now consenting to let the State see his papers and books of account. He was compelled to let the accused pose as one who had nothing whatever to conceal. He was not slow, however, to make capital out of the other phases of the situation, beginning many questions with the phrase, "Do your books and papers show?" In this way he brought out many facts more or less suspicious, some of which the accused had not referred to in his direct testimony.

At intervals the prosecutor drew from Beckwith admissions that he had been customarily in debt. He adroitly emphasized the evidence by frequent questions at unexpected moments and not only proved Beckwith's embarrassments in money matters during his

whole career, but did so in an effective manner not at all consoling to his adversary.

Finally, after his trying and risky experience upon the rack and a short redirect examination, the prisoner left the witness-chair. He had been compelled to make unfortunate admissions. His manner was not in his favor: he was too exact. He had had no doubt that his vigor and courage would be equal to any task, but he had not counted on the change which imprisonment and worry had wrought, and his discomfiture had been increased by surprise at his lack of strength and nerve. He had proved no exception to the rule that lawyers make poor witnesses. Moreover, the District Attorney had been ruthless in using the tricks of the cross-examiner, especially those which put the witness in such a light that he had to explain.

The prosecutor had caught him a number of times in an original psychological trap. The underlying theory was that a witness has two motives for any given act, and that, when his motive is inquired for, he will give the one which is not controlling, either concealing the other or stating it as if it were incidental. When, therefore, he asked Beckwith why he had done any specific thing, as soon as the motive

was stated he would hasten to say: "That is one reason—now give us the real reason." And when the second motive was stated, always with a protest, the jury could see that it probably was the one that controlled.

Another stumbling-block was Beckwith's deliberation, which at times gave his wily questioner the opportunity to ask: "Why do you hesitate?"

Tricks like these Beckwith had made use of in his own cases, but now that they were tried on him he had found them very disconcerting—the more so as he appreciated the position in which they placed him before the jury.

The real art of the prosecutor, however, had lain in knowing when to desist. Explanations which would explain he had not asked for. While he had used his theory of the two motives with good effect, he had not tried it once too often; nor had he pressed anything far enough to arouse sympathy for the witness. The whole cross-examination had shown him to be a man of cunning, training and discretion. Beckwith felt its damaging character and also realized that at best the jury did not wholly believe him.

With this evidence the defense was concluded. Colonel Sickles had calculated that calling the

prisoner last would give a dramatic advantage, for the central figure of the case had been reserved as a climax. The human being upon the stand before the jury was flesh of their flesh, bone of their bone, and the real question was:

"Shall we put this man to death?"

CHAPTER XX

At a Disadvantage

The criminal law is not founded in a principle of vengeance. It does not punish that it may inflict suffering. The humanity of the law feels and regrets every pain it causes, every hour of restraint it imposes, and more deeply still every life it forfeits.
—*Webster.*

ONLY one more witness was to be heard. Robert, who had been recalled by the State, was again seated before the jury. On Mr. Hodgkin's last journey no empty box had been thrown into the river, so far as he knew, nor had he observed any such object floating on the surface of the water. Beckwith shifted to a more restful position, for the evidence was at last concluded.

During the progress of the trial the Colonel had found it necessary on several occasions to prolong his labors to a late hour. Once he had been compelled to work through the entire night. The District Attorney, having more machinery at command, had fared better.

Now, in preparation for the charge to the jury

and the closing arguments, all the lawyers were obliged to content themselves with a few hours' sleep; but so intense was the interest that they did not show the strain.

There was a keen desire, shared by members of the bar with the general public, to hear the speeches, and the courtroom was packed with spectators, many of them women.

Colonel Sickles was fretting—railing at the forms of procedure. "To my argument my opponent is allowed a reply," he explained in protest to Alice and the mother, "but, no matter how completely I may be able to answer his points, the law gives me no opportunity."

A moment later he bowed to the court and turned to address the jury.

Having learned that Mr. Carpenter was to make the one speech accorded the prosecution, the Colonel proceeded to cauterize him, at the same time inveighing against the unfairness of a system whereby the wealthy, from the basest motives, are permitted to employ talented counsel to assist in doing to death the unfortunate. It belonged, he said, to the dark ages of inhuman cruelty and oppression, to the arbitrary rule of kings. It was the invention of

monsters and not of men. Taking advantage of the system was a confession that the case of the State was weak—an admission that Justice had fallen and Revenge was enthroned—an avowal that sane logic and proven facts and honest evidence were to be laid aside for the unreliable deductions of the orator.

The special fund referred to in the evidence had been proven to be all in the bank. His client might draw it out, to be sure, but under no circumstances could he escape accounting for it. The estate would be administered by the Surrogate's Court. And when the accused should come into possession of the property as trustee he would have to account to the Public Bath Institute, and to the niece—a piece of animated venom, shrewd and not to be hoodwinked.

Reviewing the incident of the troublesome letter, step by step, he plausibly elaborated the details, arguing the perfect naturalness and likelihood of the prisoner's story and contrasting it with the "mere suspicions" of his adversary. Having exhausted the subject, he avoided any further reference to it.

In discussing the supposed administering of digitalin the Colonel spoke in a voice of dramatic earnestness. His manner was tense; his sentences

showed painstaking care in the choice of words. He realized that he had much to combat.

The coloring of the waiter's evidence was inspired, he said, by the police. The witness and all others of the roaming class ought not to be relied on when a human life was at stake. The very infirmities of memory which his opponent would undoubtedly urge against his client were indicia of innocence. A guilty or dishonest man could easily have trumped up a fabrication to fit the case which it would be impossible to disprove; a story which would fully account for the empty capsule-box, or involve the present possession of a box containing the remainder of the capsules. In fact, a simple denial that he had ever had the box would have been sufficient if the prisoner had chosen to make it.

"If my friend and client had given his friend and client poison," he argued, "would not Hodgkin, when he was out there on the river, when he was sick in the boat, have said to his Judas: 'That capsule is playing the mischief with me,' or 'What was it you gave me in that glass?' Would he not have referred in some way to the drug which it is supposed he took? They tell you that digitalin has an acrid, a bitter

taste. If Hodgkin had taken the drug in liquid form, when he felt sick, would he not have remembered how bitter it was? And would he not have spoken of it? The first impulse in all of us when a sickness comes on is to hunt for the cause. He not only said nothing about a capsule or a drugged drink, but he did mention the contributing cause of death—the peaches. Such is the testimony. Robert was there. He heard all that was said—and told it on the stand. He did not happen to see the floating box, but that is negative. Weighing this important evidence as humane or logical or sensible men must weigh it, with the illumination of the surrounding circumstances, judging it by standards of fair-minded men, it means innocence, and you could not make anything else out of it even if you wanted to."

The accused had digitalin in his basement room, but the detective Walsh was attempting murder when he swore that the bottle was practically empty and the book open at a page where digitalin was discussed. This testimony had little bearing on the case except to show the desperate nature of some of the evidence and the worthless character of the detective. It was "paid" testimony, worthy only of the niece, spending her legacy, not to bring a guilty man to justice, but

to break a will and work out a low, cowardly and mistaken revenge.

All men much alone, particularly bachelors of advanced years, grow one-sided and run to cremation and baths and such things. It was a rarity—this will—but the man who made it was peculiar, nearly always alone, brooding, growing on one side, and getting ready to do an unexpected thing with his property. If a man wished to select an object for his bounty, there was none more worthy than the Public Bath Institute. And as a monument it was far and away preferable to cold granite. The deceased was a director of the charity and a great bather. It was, therefore, natural that his thoughts and his sympathy should turn in its direction. Fortunately men do not think along the same lines in the matter of their benevolence; or all would select a common philanthropy and the remaining charities could not be maintained. There was no reason why Hodgkin might not have given his estate to charity if he wished. The law permitted it. The niece had no right to the property either by law or nature. Relatives have no natural right to inherit—a principle recognized from Blackstone down. At all events the deceased had provided that his niece should have the

income from his property during her life. Probably this was a more generous bequest than a gift of the estate outright, as then she would spend the principal in a few years and would have nothing left. So that the will was not only wise, but truly just to the testator's sole surviving relative. It might be odd, but if more wills were like it, this would be a happier world.

The question of haste in cremating the remains was hardly worthy of contempt. If a *post-mortem* examination had been made, the body would have been found to be saturated with nicotine. No witness had claimed that any chemical test would have disclosed the presence of digitalin, even if present—merely that there could have been another of those hyper-scientific physiological tests, too unreliable to be considered seriously when life is at stake, particularly in the case at hand, which not only involved the fate of Beckwith Miller, but the happiness of the three generations whose idol he was. The dangerous opposing counsel—the wizard of the courtroom—with his matchless rhetoric, might make the jury believe that in this cremation incident was to be found some evidence of guilt. He could betray them into believing anything—for a time! But when their judgment

became cool they would cast aside the evidence respecting cremation as they would a hollow and an empty shell. If the accused had believed that digitalin could be detected by a chemical test,—believed that it would be,—then all the circumstances might afford some basis of suspicion. But he had known all the time that a chemical test would not detect digitalin. Therefore, the idea that he had caused his friend to provide for cremating his body became absurd as an indication of guilt, and the prompt carrying out of this wish was not only a badge, but a certificate, of innocence.

The three physicians at the coroner's inquest had agreed on the real cause of death. Their evidence was then accepted by the State and it ought to be adopted by the jury.

The financial embarrassments of his client had arisen from the very fact that he was honest. The District Attorney had shown zeal, but had uncovered a sodden heart when he suggested, as he had by his questions, that poverty is temptation. It was a cruel creed, to point the finger of suspicion at every man who is poor. It was contrary to human experience and the last refuge of a desperate advocate.

One well posted in the ways of lawyers would have

perceived that the Colonel was straining to hide ugly evidence in the dust of invective. Whether or not the jury was convinced, he was making the very best of a bad situation.

The prisoner's study of poisons, the Colonel continued, was not strange: it had been his pastime even before he had met Hodgkin. Most men of intellect have an avocation as well as a vocation; nearly all able lawyers have a diversion—politics, bookwriting, painting, horticulture, the study of handwriting, medical jurisprudence—and why not toxicology?

As he approached his closing period the veteran advocate reviewed the pathetic phases of the case. Here he was strong. He paid an exalted tribute to woman and brought tears to the eyes of every juror as he referred to the tender and delicate nature of the plucky and true little wife and to the womanhood of the mother.

The grace, the beauty, the finish, the depth of this plea, appealing to the better side of human nature, effectively ended a remarkable speech.

CHAPTER XXI

The Verdict

I attribute my success in public speech to my care in private conversation. —*Gladstone.*

The golden ages of the world were the ages of democracy and oratory; and the most brilliant pages of every country's history were written when the voice of free discussion was heard in the land. No people ever reached a high development among whom this voice was not heard; and every people that strangled it soon sank into degradation and misery.

—*Altgeld.*

WHEN the time had arrived for the State's closing address, Mr. Carpenter remained in his seat, hoping that his silence would suggest a brief recess. He wished the jury to feel rested when he began his speech, but preferred that the court should move in the matter. The Judge caught the idea and excused the jury for a short time. When they were again in their seats Mr. Carpenter spoke.

After a cautious and ingratiating introduction he discussed the opportunity for committing the crime.

"If the prisoner had the poison already prepared

for his victim and encased in a capsule, as he surely had, it required but an instant to take it. And it was taken at Maltby's—in a saloon (not an unheard-of place for a murder)—while the lawyer and his quarry were seated in the private room together, enjoying, as the prisoner has confessed, what was rare with them, seclusion and privacy while they dined. Only one thing is more rare than this luxury of a private lunchroom—the invention of a murder plot which, at some point in its execution, does not fail! The secrecy so carefully provided for was interrupted at the very crisis by a witness not only to the means of death, but to the guilty hiding of it. Such is fate! So obstinate is the universal psychic law which detects the destroyer of human life! That the waiter was there is undisputed. That the box and the capsule were there is admitted: the prisoner was *playing* with them—the excuse of a child! How flimsy his tale! Only one capsule left! Taken out, the box was empty. But the box was spirited away! Why? No one knows! That is one of the secrets left for the Judgment Day. All we need to know is that there was no occasion to destroy the box: it was innocent enough, if it really contained quinine! *Inadvertently* taken away from the place which the prisoner had

inadvertently neglected to name in his story at the inquest, it was later *inadvertently* found and *inadvertently* thrown into the river! An empty box floats, and if thrown on the water it would have floated into the vision of Robert. He had nothing to do but scan the surface of the river, and yet he did not see it. Such an unusual object would be noticed as it floated. The prisoner could not tell when he purchased the box nor where he obtained it. Such clumsy stories are frequently met in criminal cases, but never in a case where the accused is acquitted! Such explanations are confessions. And there are many confessions in this one case. Even the adroit, ingenious, experienced, audacious and convincing Colonel Sickles staggers under his load and attempts to confuse the judgment with noise and vituperation.

"The temptations that cause men to fall are those which are constant. The prisoner's temptation to be rid of his debts was undermining his will during the entire period of his manhood, and the pressing desire to secure relief from the insidious strain of unremitting vexation was ever at hand. That the accused had a fixed plan for making money and lifting this burden of debt may be conceded, but he had come

to realize that it was too much beset with delay; it was too homeopathic; and it was too uncertain.

"The letter and the circumstances surrounding it are easily capable of analysis. Taking the prisoner's own story, the two men had quarreled. The client was about to discharge the lawyer. What would become of the lawyer then! He could barely exist notwithstanding the help of the client. What would be his fate if his mainstay should be taken from him? His troubles would be at an end if he could lay his hands on twenty-one thousand dollars, especially if he could in addition appropriate a fair fraction of the estate. With the aid of even the legitimate charges of the trusteeship he could live. Stern necessity and commanding love and goading pride combined to make temptation the master. His plans were deeply laid. Their execution had been put off. But the situation became perilous, and no time could be lost. Decision was prompt! The letter was written. Contrary to custom, it was not copied. A copybook can not prudently be destroyed nor a page torn from it. The lawyer, as the executor named in the will, was entitled to the custody of the decedent's papers. If the letter was not destroyed by the victim, it would be by the murderer. The lawyer

acted. And when the deed was done the murderer took possession of everything on the person of his victim. The letter was not there! He lost no time in demanding the papers at the hotel. But Fate is ever on guard! And the letter and the book were in other hands. The plan had failed. Such plans always fail—at some point—in some manner.

"The letter is a lie by the confession of the prisoner himself. The letter is cowardly! It is the act of a traitor. Friendship is in its words, but murder is in its heart. The whole damnable plot has come to light, and neither the prisoner nor even his gifted counsel can hope for a doubt, reasonable or unreasonable, in the mind of any man. The defense is gauze. It is no defense."

The undue haste in disposing of the remains was the subject of a volcanic diatribe, and the prisoner was savagely attacked for willfully disobeying the command of Bertha Hodgkin to stop the cremation. If he chose to destroy evidence he must take the consequences imposed by the law, and the jury had the right to presume that the evidence would be damaging.

Mr. Carpenter then reviewed the testimony showing that death was caused by digitalin, re-analyzing,

re-arguing and re-stating to gain the force of repetition. That the fatal drug was digitalin, for which there is no chemical test and about which so little is generally known, pointed directly to the prisoner, who was on friendly terms with every poison; who admitted a familiarity with digitalin, had it in his laboratory and knew a capsule of it would kill—a fit setting for the secret room, the open book, and the bottle that contained only what was left of the poison after the experiments and after the fatal dose had been taken out.

Such in the main was the argument. But there was another and a more important feature—its dress, its appeal.

As it advanced, jury and spectators, one by one, were drawn under the spell of that indefinable assembling of thought, voice and presence which constitutes oratory. Mr. Carpenter was a disciple of Daniel Webster and aspired to be a master of magnetic speech. He had labored long and hard to accomplish his purpose, and he made use of every aid known to the art, not the least of which was the habit of denying himself solid food for twenty-four hours before an effort of importance.

He had built his foundation, reared his structure

with its pinnacles and crowned it with a dome, all in the most careful and skillful manner. Shades of meaning were at command, as clear as crystal, but unknown to the ordinary speaker. He was a magician in the use of vivid contrasts. They gleamed like spears in sunlight. His pictures were of manifold subjects and designs, perfectly executed. The modulations of voice were almost infinite, and no combination of pitch and volume and tone was ever duplicated. Words bounded forth unleashed and unfettered. He dashed into the defense, charging with a rush and spirit that compelled conviction by its mere momentum, and stiffened with ripping censure as he scotched the viper of perjury. A moment of calm, and the dazzled jury followed him into the land of fancy while he ascended from earth to heaven in a marvelous panegyric upon the home, secure only so long as the laws are enforced.

Another pause, long and dramatic. One could feel the gathering of strength. By degrees the orator drew into action his power to the last atom, carrying all before him like the sweep of a mighty storm. Concentrating his entire will in expressing and at the same time restraining his emotions, he swung into a fervid tribute to woman, dwelling upon the sacred

duty of the jury to protect womankind by their verdict, pleading as he closed that no woman is safe in a land of unpunished assassins.

To the trained mind the oration was the procession of rhetoric, not the march of logic; a rare manifestation of insinuating magnetic power, not an exhibition of intellectual culture. But the minds of the jury were not trained, and to them it was bewildering.

The lawyer walked to the back of the room amid enthusiastic greetings that amounted to an ovation.

When the first wave of sensation had in part subsided the jury were instructed as to the law and retired.

The prisoner, again handcuffed, was taken from the courtroom, the court officers refusing him the privilege of remaining until the incoming of the verdict.

Anxiously the family waited and long.

"The greater the delay the more likely is the jury to acquit," observed the Colonel.

These words comforted, but the sufferers soon surrendered themselves to their lowering fears.

Meanwhile the jury were deliberating. Some were violent, a few stubborn. One, of Scotch descent, listened patiently without disclosing any sign of bias.

In every vote there was a blank ballot which the other jurors instinctively charged up to him. The longer they debated the more influence, little by little, the silent juror acquired.

At last the man made a visit to the anteroom where drinking-water and other conveniences were provided.

A court officer was in charge. According to law, he had taken an oath not to communicate with the jury on any subject connected with the trial.

"Have you come to a verdict?" the officer inquired in an off-hand and agreeable manner, knocking the ashes from his cigar.

"Not yet," replied the Scotchman. At the same time he thrust his hands into his pockets, conveying the idea that he would be glad to listen, but not to talk.

"You're a long time at it," the officer remarked, feeling his way—"a long time. It's easy for us—we see so many of 'em. If they'd leave it to us we'd decide quick."

He paused and relighted his cigar, blowing a large ring of smoke. Gazing past it, he scanned the juryman.

There was no sign that the silence would be broken.

"How much longer will you be?"

"No telling!" drawled the juror with a stage yawn that encouraged his questioner.

"The Judge won't stand your staying out long. He's convinced—cocksure! And the boss is, too—he's going to prosecute some other bad charges against the prisoner. It's easy! We know 'em over here!"

Another juror came into the room, and the Scotchman sauntered back to his fellows.

Not long afterward the Judge stepped into the courtroom from his chambers. Beckwith, and then the jury, conducted by the court officers, took their seats.

The Judge held a whispered consultation with a court officer which the prisoner's family, alert to every sign and sound, tried in vain to fathom.

The clerk rose, holding a list in his hand.

"Gentlemen of the jury, please answer to your names," he called in a loud voice, but it was not as firm as it had been during the trial.

As the names of the jurors were called Alice held tight her husband's hand.

The clerk proceeded:

"Have you agreed upon your verdict?"

"We have," answered the foreman.

"Gentlemen, please rise. The prisoner will rise. Jurors, look upon the prisoner. Prisoner, look upon the jurors. How say you, gentlemen of the jury, is the prisoner at the bar guilty or not guilty of the crime charged in the indictment?"

"Guilty."

CHAPTER XXII

The Nemesis

For time at last sets all things even—
And if we do but watch the hour,
There never yet was human power
Which could evade, if unforgiven,
The patient search and vigil long
Of him who treasures up a wrong.

—*Byron.*

AS the crushing word was pronounced, Beckwith resumed his seat with a heavy, mechanical air, and Alice, prompted by an impulse to shelter, stepped between him and the jury and drew his head tenderly to her. He could feel the true heart thumping hard and fast against its prison wall.

Mrs. Miller, racked in every nerve, grasped his hand. "I know you are innocent," she exclaimed. Sinking to the floor, she clung to the hand she held in both of hers. "My boy," she moaned piteously, and wept like a child.

Beckwith, disengaging his hand, laid it gently upon her head, where the snows were falling fast,

and then upon that of Alexander, who was sobbing bitterly.

The jury was discharged, and the Judge went slowly to his chambers, while the District Attorney, interrupted at every step by congratulations, made his way to his office.

The prisoner gave the Colonel a grateful handshake and then sank into a deep mire of dejection. A gruff voice aroused him. He kissed his family goodbye—"for the present," he said. Then, handcuffed to a court officer and followed by attendants, he turned his steps to the jail. At last the fibers of the oaken will were twisted. As he left the courtroom he cast toward his own the look of a hunted creature.

Alice's eyes were dry. She was stunned. Mrs. Miller, closely watching, hurried her home.

There a messenger presently appeared carrying a long box. Mrs. Miller opened it and took upstairs an armful of roses. Alice caressed the flowers, looked in vain for a clue to the giver and gently whispered:

"That jasmine flower!"

She stared into the mother's face with that peculiar expression which portends a threatened mind.

Mrs. Miller's first thought was to secure relief by

forcing tears. She, therefore, folded the small arms around Alexander. But the fount was dry.

"Child of the Flower Moon!" muttered Alice. She stared vacantly. "My plumed knight!" she plaintively exclaimed, and repeated the words again and again.

Mrs. Miller realized that there was great danger and imperative need of help, but a meager purse. Fortunately, the altruistic spirit was still represented in the medical profession. A skilled and sympathetic physician hastened a recovery, though it was many weeks before the patient was again normal.

After the verdict, the convicted prisoner and his counsel talked earnestly together.

The Colonel was for delay. Delay was feasible in the law! It would make hardships for the family, but it was too useful a weapon of defense to throw away even to spare them. Public interest would abate as time went by—political emergencies would be out of the way—the court actors would change—new evidence might be discovered!

It was months before the motion for a new trial was decided. Then it was overruled, but much time had been gained. Another delay intervened before the Judge passed the resulting sentence of death.

Still the policy of the Colonel was delay—all that he could get.

The condemned man now took up his abode in "Murderers' Row."

Nature seemed to take note of the event, for the day was dark. The next morning, too, was gloomy —nowhere more so than in the office of Colonel Sickles. Here George had made his headquarters upon the abandonment of Beckwith's office. He had picked up the routine work and was rapidly becoming necessary to his employer.

The Colonel was smoking and talking in a leisurely fashion to one and another of the many hangers-on who turn up in the office of a criminal lawyer. He had scarcely disposed of an idle caller when a stranger, an Italian, appeared, with whom he went into his own room and shut the door.

This was uncommon. It was seldom that Colonel Sickles occupied his private office. He preferred to be where he was less confined and where he could sit in his favorite chair, with his feet resting on the table, and smoke.

Coming out again from his own room, the Colonel noticed one of the jurymen in the recent trial. From

long habit he could call by name each juror in a case.

"Hello, Wiltsie!" he exclaimed. "Tell me! Why did you hang that man?"

The juryman, pumping the lawyer's arm, replied:

"I'll tell you, Colonel. Your client was too game —he had the nerve to poison Hodgkin, and I believe he did it."

"I've heard that before," rejoined the Colonel. "You seem to have had *your* nerve with you!"

While the loungers in the office were laughing at this sally Miss Hodgkin entered.

She took in at a glance the location of the offices and moved quickly into the private room. As she passed she spoke in a peremptory tone:

"Colonel Sickles, I should like a word with you."

He followed her, and she shut the door.

"I have come to see you professionally," she began.

"Very well, madam!"

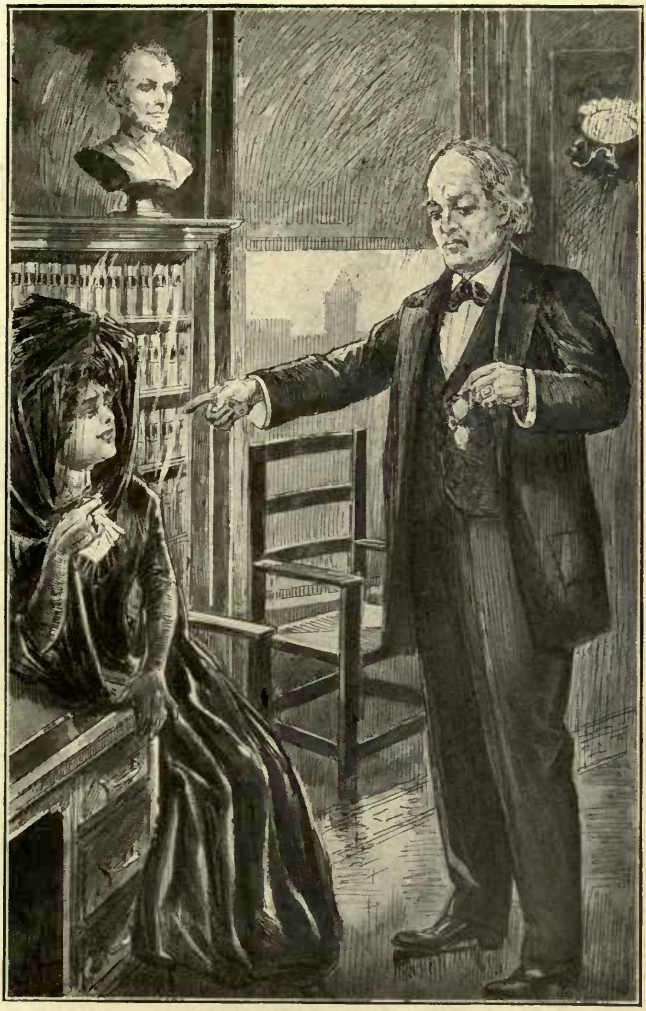
"And I do not want you to speak of the past."

"What can I do for you?"

"I am a determined woman and believe the way to accomplish results is to be direct; so I have come straight to you."

"Proceed," he said irritably.

"I understand that when a client is convicted you



"Let me tell you that this lawyer is not for sale."

are under no obligations to follow his case on to a higher court. Am I correct?"

"The law imposes none, madam."

"Well, I would like to know what arrangements can be made with you not to try the case in the next court."

"Maybe Beck will not carry the case up."

"I know he will."

"Then you know more than I do."

The Colonel fingered his ring uneasily.

"Well, my counsel tells me he will."

"It costs money to go up in a case like this, young woman."

"People raise money to 'go up'," she observed, catching his phrase, "when life is at stake."

"If they can," he interposed.

"Well, I wish to arrange with you to drop the matter, as you say you are under no obligations to proceed further."

The Colonel paused, but only for a second.

"The man has no money and can raise none for any purpose," he declared, willfully ignoring the suggestion.

Miss Hodgkin was annoyed. She had encountered a man she could neither manage nor understand.

"I have braved a great deal to come here," she exclaimed, with a wave of her gloved hand, "and I hope you will not prolong the interview. My nerves are strained to the highest point now."

The Colonel ran his thumbs into the armholes of his vest:

"What is it you want, madam? Ask and I will give you an answer at least."

Miss Hodgkin was baffled. Evidently she would be obliged to make a blunt proposition to the lawyer. She was equal to the emergency.

"Would money tempt you to drop the case?" she asked, with an insinuating inflection.

"You mean, to let the case stay dropped—do you?" was the tantalizing reply.

"Yes."

"Well, now, let me put a situation to you. You have money—or the expectation of it. Here is a man convicted of murder. Like all men, in greater or less degree, he has others dependent upon him. There is a possibility that he has been wrongly convicted. At all events he should be accorded the privilege of having that question determined by the appellate tribunals. But he has no money. Now, how noble a woman you would be if you should come forward

and say: 'Here, I don't want the blood of this man on me. I spent a large sum to convict him, but the man should have a chance. *I* will furnish the money!' Now, there, madam, is something for you to think about!"

He was thrusting daggers into the soul of his visitor, and he enjoyed it.

"This is nonsense," she protested, impatiently tapping her foot upon the floor. While she was angry, the idea that Beckwith could not raise the necessary funds gratified her.

"You may regard it as nonsense," he retorted. "I do not. There are those who believe that a lawyer—particularly a criminal lawyer—can be bought like a piece of furniture. Because in the heat of a trial, when a client's life is in jeopardy, I do things of which I'm not proud, you think you can bribe me to leave him in the ditch. Let me tell you that *this* lawyer is not for sale!"

She looked toward the door.

The Colonel was on his feet in an instant. Standing with his index finger pointed at her, in lawyer fashion, he shook it with emphasis and continued:

"You sit still and hear me until I get through. You're a woman—I respect that much anyway. But

I've more to say to you. You want my reply to your offer, and I propose that you shall sit here until you get it, and all of it. When I took this case it was my judgment that my client was guilty, but it was not for me to be his judge. As the preparation for the trial progressed and I learned more of Beck's real character, I grew doubtful as to his guilt, though I knew that a perfect record of many years may be destroyed in as many moments by a willful error of the heart or a chance slip of the brain. Before long I believed him innocent, and from what I've been told in this very room less than half an hour ago, I can say to you that had he been as deficient in conscience as you are in mercy he would not have been convicted. I advise you to let him alone. You are trying to murder this man! Some day you will look at your hands—they'll be covered with blood! They'll haunt you! The man has no money with which to defend himself, but I—one of the class you think you can buy with a little gold—I, the lawyer who stoops to do sly things in court—*I* will take the money from my own pocket, and if I can help it you shall not hang him!"

The visitor had her hand upon the doorknob.

"Go," he said. "You could not buy me with all

the money in America. Go, and have more respect for lawyers hereafter!"

Miss Hodgkin moved quickly through the door. In her path stood Alice.

The Colonel hurried toward them, his hands raised in warning.

"Why is this woman *here?*" asked Alice, flushed and erect.

"She has just been trying to bribe me to desert you, Mrs. Miller," answered the Colonel, coolly.

Alice turned upon the Nemesis a look of restrained anger and of compassion.

"You are making a mistake, Miss Hodgkin!" she protested. "Your energy is worthy a better cause, as you will learn if you'll but keep your hands off. If you don't, you'll reap the whirlwind. I ask no favor from my husband's enemy, but for your own sake let me and mine alone, and time will show you the wrong you are doing."

Miss Hodgkin was edging past her tormentor.

"I have no quarrel with you," she replied, "but I *will* have my own; and I'll see punished all who get in the way——"

She flounced through the door.

Turning to Alice, the Colonel exclaimed:

"You are right. I can tell you now what the career of that woman will be. I've seen so many such cases that I *know*. She's a bad one! She'll secure a compromise from the Bath Institute people. They'll be alarmed at the prospect of expensive litigation, the chance that the estate might fall into the hands of a trust company, with its usual heavy charges, and the possible loss of a part of the principal. Knowing the difficulty of raising funds to carry on a war in court, they'll give up a large part of the estate. No matter! Revenge is expensive. Men make concessions to the unfortunate, but get all they can when employed for revenge. Already Miss Hodgkin is liable for a large sum. Her fortune will last but a short time. She has always had money—she always will have it. When her property has been dissipated she'll find means of getting more. But no one can give way to such a passion as hers and survive it. In a few years, some way or other, she'll come to a bad end."

The Colonel did not waste a great deal of thought on Miss Hodgkin. He began at once preparations for dragging his case through the higher tribunals. He used to the limit all the dilatory tactics known

to the profession, bluffing and begging his way, and gained a month here, a week or a day there, until the greater part of a year had gone by before the case was heard in the court of "intermediate conjecture," as the General Term was affectionately called by the legal profession.

As expected, he lost. Then he about-faced and turned heaven and earth to get an early hearing in the court of last resort—the Court of Appeals.

Alice had seen this august tribunal in session—had heard her husband try to convince the learned men in their haughty robes that a client had been unjustly convicted. The memory of their barricaded manner and frozen faces did not inspire hope in her present peril.

Why her counsel had abandoned his policy of delay was a mystery. The only satisfaction he would give was implied in the words, "You must trust me." Alice feared they were speeding to destruction, but he would not relent.

The Colonel was called to the office of the District Attorney.

"Your anxiety to rush this case is very sudden," the prosecutor bantered.

"I want to get it out of the way. I've had a warning—my doctor says I must have a rest."

"Well, have one—the case won't be reached till you get back!"

"But I have other cases, and I can't leave now."

"I have some rights and some cases myself—don't forget that. Come, Colonel, you have some object in this change of front—out with it!" And the prosecutor rose and slammed a book on his desk.

"Impatient, eh!" grunted the Colonel. "I'm not asking for anything—you're the one—what did you call me over here for?"

"I want that case to go over—I'll have it put over anyway, but I'd rather do it amicably."

"Can't do it," protested the Colonel. "Can't do it—would like to accommodate you, but it can't be done."

"Then don't ask any favors from this office again—they won't be granted."

"What's up? Why don't you let the case go on? Afraid of it?"

"Bosh! What do you want? If you're decent I'll give it to you. Let's get ahead!"

"I don't want anything, I tell you, and I'd help you if you'd be frank and tell me why you want

delay. I'm not going to throw away any advantage unless I know why."

"Advantage, fiddlesticks! You're playing with me. All there is about it is that I'm in the midst of my campaign, with the convention right upon me, and I can't give the time."

"Why in the devil didn't you say so! I'll fix it up—*of course.* But you'll have to fix me up if I want a continuance later. I want a chance to get away——"

"I couldn't make any stipulation like that——"

"Don't need to," interrupted the Colonel. "Don't need to—just your word! I'll accommodate you gladly now if you will me later—if I ask it!"

The District Attorney took a moment to reflect. He ran over the situation in his mind.

"Very well," he said, with a sneer.

"I'm glad I'm by that," the Colonel observed to George. "I figured correctly. The District Attorney couldn't afford to run the risk of having the case decided before the convention. He's in a tight place politically, and the court might reverse the conviction! That move ought to be good for another year!"

CHAPTER XXIII

GLOOM

Thus drifting afar to the dim-vaulted caves
  Where life and its ventures are laid,
The dreamers who gaze while we battle the waves
  May see us in sunshine or shade;
Yet true to our course, though our shadow grow dark
  We'll trim our broad sail as before,
And stand by the rudder that governs the bark,
  Nor ask how we look from the shore!

—*Holmes.*

AFTER the conviction the Miller family rented to strangers a room in their home, Alice earned a small amount by playing the piano for a young woman of the neighborhood who taught dancing, and they eked out an existence in other ways. But it was plain that more effective relief must be found. Alice thought of the life-insurance policy. Fearing another of Beckwith's vetoes and believing she might avoid it if she secured in advance the promise of a loan, she wrote to the insurance company that she would apply to them in person the next day.

At the company's office she was questioned and delayed, and finally referred to the vice-president.

"I presume you know who I am?" she began.

"Perfectly." The official picked up her letter from his desk to corroborate his statement.

Alice unfolded the policy and laid it on the table before him.

"I don't know how much your company advances, but we will want all we can get. I believe you know the circumstances."

The vice-president folded his arms.

"We don't loan on these policies," he said, "but we have a companion company that does—that part of it is all right—but the trouble is they won't loan on *this* policy——"

"Not at *all?*" interrupted Alice. Her head was swimming.

"No—not at all. Pardon me if I am frank—I speak with the greatest sympathy and respect. If your husband should die a natural death the policy would be good for the full amount, but if he doesn't——"

"Pardon *me!* I can't permit you to mention such a matter—it is shocking!"

The official walked back and forth, rubbing his hands.

"Be calm, madam!" he counseled, nervously. "My

position is not enviable. I am a man of family, and your situation appeals to me strongly——"

"You accepted the money from me when I paid the premiums—one very recently—since the trial—and you said nothing then."

The man flushed.

"Indulge me while I say that under fitting conditions we will be glad to acknowledge liability."

"But you knew all the circumstances when you accepted the premiums. You knew the money was my own—that I was trying to encourage my unhappy husband—and you said not a word about any possible conditions."

"We have only recently submitted the question to our counsel, who is the attorney for the companion company as well. I regret sincerely that as matters now are it will be impossible to get the loan; but such is the hard fact. I am helpless, Mrs. Miller."

"I see now," mused Alice, as she gained the street, "what was the meaning of the atmosphere of reluctance and postponement I encountered when I went into the office. How self-satisfied these people are—permitting me to pay—that last premium particularly—without warning! And then refusing to loan on

the policy! 'Permanent Assurance!' The company is well named!"

When sure of her strength she went with Mrs. Miller and Alexander to the office of the Colonel.

George welcomed them heartily. While Alice had won his heart before her misfortune, now she was his ideal of true womanhood.

She placed a hand tenderly on his head.

"For some time my husband and I have been eager, George," she said with emotion, "that you should have some token of our gratitude for your loyalty, and he has granted me the pleasure of carrying out our wish."

Alice feelingly placed in George's hand Beckwith's familiar watch-chain.

"I hope you will prize the gift and remember always that there's nothing you can ask of us at any time that we will not do for you, my dear boy."

Big tears came to the young man's eyes, and he struggled with an awkward acknowledgment, which was relieved only by the arrival of Colonel Sickles.

The Colonel removed his hat, threw away a cigar and greeted the family with great deference, taking Alexander by the hand and keeping it in his.

All were seated closely together at the large table in the general office, but Alice found it necessary to put forth a great effort of the will before she could proceed.

"You must excuse me," she explained. "I am only trying to borrow a little on a life-insurance policy, and it seems so wicked, almost, to consider such a matter when a noble, grand, devoted husband is in danger of being put to death. But don't let me distress you. I trespass on your time so much! Forgive me! I'll not lose myself again."

She told her story.

The Colonel became absorbed.

"To whom is the policy payable?" he asked. "To you or to Beck's estate?"

"To the estate," answered Alice.

"Bad!" he exclaimed. "Let me see it."

As he ran it over he gave expression to his thoughts:

"No exception here, anywhere, of 'death at the hands of justice,' which is the language of many of the newer forms—nothing! Good! You see, our highest court has held that when the policy is payable to a wife, and nothing is said about suicide, the wife can recover if the insured kills himself. That comes fairly close to this question. But this policy is pay-

able to the estate—that's a weak spot. But what's this! What's this! 'After two years this policy shall be non-contestable except for the non-payment of premiums as stipulated, or for fraud.' Let me read that again—humph!"

"Doesn't that settle the question?" exclaimed Alice. "The two years passed long ago, the premiums are paid, and there is no fraud."

The Colonel looked puzzled.

"I'm not quite sure on the point," he said. "It may be that it is merely the validity of the policy as a binding obligation which becomes incontestable and that the contract expressed in the policy is not affected by this provision. The question of public policy enters into all these insurance problems and may control in spite of this clause or may define its meaning. You see, the case is not simple—too technical for you to worry over. You don't want to get a lawyer to worry for you and then worry yourself, little woman."

Alice was adrift. So many words and nothing tangible!

"Well, your *impression* is favorable, Colonel?" she pleaded, as she stroked Alexander's hair.

"Yes, on the whole, but I don't want to encourage

you too much. Those people have been investigating this, of course, and they may have good reasons for their position. It's their business, and they keep posted. I will have to look it up myself and talk with those sharks at the insurance office. But it's no use bothering with this question now. The loaning company won't lend the money, and it's certain no one else will—it's no use! You'll have to make the best of it. However, I will look into it. If I don't you'll worry about it—can't help it! We might as well know where we stand, and then, if they have us, we'll keep it to ourselves—no use distressing your husband with a knowledge of such things since we can't change them."

After a few days the Colonel wrote that the insurance question was doubtful. Should all go wrong with Beckwith no recovery could be had on the policy except at the end of a lawsuit, with the chances against recovery.

Meanwhile the homestead mortgage became due, and it could not be refunded. No avenue was now open but to sell the property. But the stigma which Beckwith's fate had placed upon the occupants rested also on the house, and no one would buy it at a price in excess of the mortgage.

The sense of this last misfortune was to Alice like a touch of cold marble at night, and it froze for a time her energy and her hope.

She was once more a little mendicant.

CHAPTER XXIV

The Struggle

Music is God's best gift to man—the only art of heaven given to earth, the only art of earth that we take to heaven.
—*Charles W. Landon.*

THE Colonel made haste to dispel the gloom. He had a conference with the owner of the homestead encumbrance. What magic wand he waved Alice did not know, but the man agreed not only to carry the mortgage, but the interest as well, until Beckwith's fate should be finally decided. The Colonel reported the news and added a sentence of cheer: "I have been going over the accounts of the trial," he wrote. "I find a surplus in my hands of $700 and take the greatest satisfaction in enclosing my check for the amount."

Mother and daughter discussed this message with its belated enclosure. The Colonel had not seen fit to send a copy of the account, but it was impossible that more was due, and if there were it would not be demanded. Alice noted that the check was for an even sum and that it came when the family credit was strained to the very limit. In all the time that

had passed this large credit had not been mentioned before! Had it been held in reserve? Or had the Italians raised another fund which was now being covertly forwarded? It did not matter. The letter was so worded that they could not with any grace do more or less than accept the remittance.

Alice now went happily to the task she had long before resolved to undertake when it should be necessary. She had enough strength, she believed, to take up the teaching of music. Thereby her piano would be saved, and she loved it as if it were a thing of life.

There were, of course, difficulties to be surmounted. New methods were in vogue; the community had become more critical; and she did not know in what way to procure pupils.

The first obstacles were not serious. She remembered the manner of her own instruction and could use it as a guide. There was at hand the small musical library which Beckwith had given her. She had the advantage of her inborn love of music, as much a part of her as the gentleness of her nature. And her pupils would not need advanced instruction.

"But the pupils!" she asked herself. "How am I to get the pupils?"

She sought the aid of the Rector, who wrote letters recommending her highly to various members of his flock, although he knew little of music and less of her qualifications. He repented that night and prayed to be forgiven—an unnecessary vexation of spirit, for his efforts did not procure a single pupil.

Alice had gone to the expense of having her long-neglected piano put in order. Now she feared that her plans would have to be abandoned.

Presently the Rector sent his daughter to the new music teacher. He could not afford such a luxury, and Alice felt guilty after each lesson when she took the dollar of her little pupil; but this feeling gradually disappeared as she found how trying was her task.

Soon another young miss applied for instruction; and then others, until she had all the pupils she could manage. They were satisfied with her method and brought her flowers and fruit and loving messages. They lightened her load and lighted her way.

In time her followers changed to those somewhat more mature, and her limited reputation grew. She was now supporting the family and, as she said, "facing the music."

She stood the strain well and was absorbed in the

work. She would have been resigned no matter what toil she might have chosen, but in the field of music there was nothing so taxing that she did not enjoy it. Housekeeping cares and the birth of Alexander had estranged her from her piano, but now that circumstances compelled a reconciliation, she pursued her music more industriously, more intelligently and, forsooth, more profitably than before.

How great a boon it was to her! It now afforded the only means of relieving extreme want. It had always been a comfort, and among the great joys of her life she counted those occasions when she was lifted on the wings of melody out of the world. Many a musical treat which she thought would produce this effect had failed her; on the other hand, she had experienced it not infrequently on occasions of little importance; and when she most yearned for it she was least likely to be gratified. The secret of these sensations, and of her musical talent as well, lay deeply hidden within herself.

This music of the inner nature she cultivated in her pupils.

"Don't play with your arms," she would say. "Forget that you have hands. Forget yourself. Try to *conceal* the technic. Let the music *flow* out

of your finger tips as if it were slipping away from you."

She would often restrain a vigorous player:

"My dear, you must treat the piano kindly. You have no grudge against it. You mustn't slap and pound it. If you do, it may snap at you and bite you with its wide, grinning jaws. Learn to love it. If you must punish it, be as gentle as possible. People will never be in sympathy with your music if they see you abuse your piano."

Thus, day by day, she taught the beautiful rather than the brilliant, feeling that such instruction imbedded itself in the characters of the pupils and strengthened the womanly side of their natures.

Alice sometimes lamented that so few were concerned as to her fate, but she accepted the situation without bitterness. Some avoided the Miller home because a visit would be awkward or dolorous; some remained away for fear they would be asked to assist in supporting the family; a few postponed their calls from day to day, making it less and less easy to muster the necessary courage; and she was aware that there were many who would not go to the house of a man condemned to be hanged.

Of her girl friends, those living in the city were

married, and in so large a community they had drifted from her. She had little hope of seeing much of them, now that she was a victim of public prejudice, but occasionally was gratified by some attention. She realized their position: they still loved her, but owing to her poverty and the natural aversion which their friends felt toward a murderer's family, any extended companionship was impossible.

With each passing month Alice and the mother had been growing more alike, as the impressionable do when constantly associated. This intermolding was manifesting itself in physiognomy as well as manner. Both were conscious of it, and they reveled in its enjoyment. One day Alice returned in the dripping rain from the unveiling of Bartholdi's statue of Liberty. She ran into the house, took Mrs. Miller's head between her hands, kissed her and exclaimed:

"I have just heard the sweetest compliment I ever had. I was told I was you in miniature."

She allowed no time for comment. Seating herself at the piano, she played the *Marseillaise Hymn*, which had been a feature of the dedicatory exercises on two continents, and then described the unveiling. From the first she had taken great interest in the project of erecting this statue. It had its pet name,

too. Learning that the sculptor had taken his mother for the model, Alice christened it "Lady B.," and she insisted that it should be called "Love Enlightening the World." This was partly because of a shadowy recollection that the early name of Bedloe's Island, upon which it stands, was Love Island; partly because the protracted toil of its creator was a pure labor of love, but mainly for the reason that she never thought of the noble monument without dwelling more upon the son's love which prompted him to immortalize his mother than of the blessings of liberty which it was intended to typify.

CHAPTER XXV

The Paths of Prejudice

Then swelled the organ; up through choir and nave
The music trembled with an inward thrill
Of bliss at its own grandeur; wave on wave
Its flood of mellow thunder rose, until
The hushed air shivered with the throb it gave.
Then, poising for a moment, it stood still,
And sank and rose again, to burst in spray
That wandered into silence far away. —*Lowell.*

That strain again;—it had a dying fall:
Oh, it came o'er my ear like the sweet south,
That breathes upon a bank of violets.
—*Shakespeare.*

Short swallow-flights of song, that dip
Their wings in tears, and skim away.
—*Tennyson.*

ALICE began to fail in strength. A temporary enforced cessation of her teaching rapidly brought financial troubles to the surface again, and she sought the advice of the Colonel. He solved the problem by collecting a bill of Beckwith's for lawyer's services, amounting to $300, which he remitted without deduction. To acknowledge the favor Alice made a special trip to the office and on her way home

drifted out of her path into one of the poorer quarters of the city.

She looked about her. An elevated railway station was not far distant, and toward it she directed her tired steps. Strains of familiar music greeted her through the open windows of a small old house within a church enclosure, evidently doomed to early destruction. A number of men and women were singing to the accompaniment of a cheap and worn piano, and above the rest rang a voice of great richness.

Alice slowly passed the house. But she could not relinquish the treat, and walked back again.

The wonderful voice, soaring like a bird, trilling and seeming to flit from branch to branch as it skipped from note to note, lifted Alice from earth.

She knew not where she was and was transported into a musical wonderland.

The spell was soon broken. She found herself opposite the doorway, and there a small woman was standing whose face told the story of a hard struggle.

"Will the lady come in?" the woman queried with a rippling Italian accent.

Still in a reverie, Alice exclaimed as she entered the door:

"You will sing again, I hope."

"Oh, yes, madame! This is my husband, Signor Timponi."

The man made a low bow.

"Welcome, lady," he said. "These are my pupils —Miss Bell, Miss Brandt, Miss Mary Brandt." He called the names of the two men who were present, but Alice did not understand them.

"I am the teacher. We are practicing."

"The *Stabat Mater?*"

"Ah! you know it, madame! You want to hear it again? You like the *Stabat Mater?*"

"Yes. I love it."

"We sing it in the church," he said, as he looked through the window at the near-by spires. "We sing it next Sunday."

"He means a week from Sunday," interjected his wife in a hesitating way. She, of the two evidently the weaker nature, had retreated to the other side of the piano.

"At the morning service, I presume?" queried Alice, expecting to take advantage of the suggestion.

"No, in the evening, madame!"

Alice reflected a moment. Perhaps she would not be able to go! She smiled as she turned to the teacher:

"But you will practice it now, will you not?"

"Certain, madame! Certain! For *you.*"

His wife addressed Alice softly:

"You excuse me—I mark the time."

The seven gathered about the piano.

While they were making preparations Alice looked about her. The room was bare except for the rickety rocking-chair in which she sat, two other chairs, a plain table and the piano. She glanced at the woman. It seemed impossible that so frail a body should contain a voice so glorious. Her chest seemed flat; she looked weak and worn, and black circles shadowed her eyes. Her neck and mouth were small. While there was no outward suggestion of power, as the woman sang Alice marveled at the manner in which she used her voice. For every note she fashioned her mouth, adjusted her throat, pitched her head, posed her figure, to produce the fullest, richest and sweetest tone —indisputable evidence of skillful and constant training. Yet the real charm of the voice was a secret, secure under Nature's lock and key. It was the personality of the singer transmuted into her singing—the soul of the voice—the "gloria," as Alice called it.

The musicians became absorbed in their work, and Alice no longer noticed Signor Timponi—ceased to

realize the presence of the singers—drank the melody —and awaited the *Inflammatus.* When this was sung she perceived how carefully the art of the composer was supplemented by the skill of the teacher. As the single voice alternated with the chorus, and the sound gradually swelled and rose to the brilliant climax, and the singer took and held the high C easily and clearly above the other voices in their grand volume of harmony—then Alice lost herself completely, and her soul was lifted into the sublime. She heard the song of birds, the caroling of angels, amid a fragrance ineffable of delicate flowers. She closed her eyes in an unknown, enchanted land with lakes of crystal and hills brilliant with verdure, canopied with clouds of soft blue and pure white. Her hand passed over a velvet of texture so fine that she was thrilled with delight. And her lips were bathed in an elysian dew. She was in the realm of ecstasy.

The music ceased.

She had found a nepenthe for her troubles, and the return to a care-laden world was reluctant. She could find only one word:

"Beautiful!"

"Madame is a musician herself?" the teacher asked, perceiving her exaltation.

"No, hardly!" she replied. "I *play*—a little."

"Rossini no friend of the piano, madame! He drive it out of the orchestra! You never hear the *Stabat Mater* with the orchestra?"

Alice shook her head.

"No! Ah! It raise you off your feet. Excuse me—you want to ask me something?"

"I merely wished to be sure who taught your wife to sing?"

"Myself," he replied, proudly.

"I thought so. It must be a great satisfaction to both of you. Have you been in America long?"

"Oh, yes, madame. Seven years. We come with the opera. We lose our money. We have to stay."

"You would like to go back, then?"

"Yes—some day."

"Pretty soon!" interrupted the wife.

Alice noted that the woman's voice was singularly sweet even in conversation.

The picture of these castaways struggling upward together among a strange people was fascinating as well as touching, and she regretted to leave. Indeed, she dreaded to take up again her own burden. Some day she might not be any better off than these exiles from their sunny land. But she put away the

thought as quickly as it came, took the singer affectionately by the hand and made a parting bow to the others.

Each homeward step increased a longing for her music. She quickened her pace and was soon seated at her piano. Over the keys her fingers glided without effort, and she drifted in rhapsody, playing her best-loved selections, dropping from one into the other —the *Inflammatus*, which above everything rang in her ears, Södermann's *Swedish Wedding March*, with its sacred suggestion, the soft notes of Braga's *Angel's Serenade*, Arditi's *L'Ingénue*, then very popular, the splendid march from *Tannhäuser*, and the catchy Spanish dances of Moszkowski. Changing moods fitted into Henry Parker's *Jerusalem*, her cherished baritone solo, and Bradsky's *Du bist mein Alles*, her pet song for the alto. She changed to Gounod, who set to music the words of Victor Hugo: *Chantez, Riez, Dormez.* The song seemed complete, for she was fond of both music and composer and pleased with the dainty words of her favorite author

She stopped to rest, but only for a moment, The impulse of her most recent experience, which had lifted her out of her sorrows, she was unwilling to release. Her fingers again touched the keys and

bounded into *Trovatore*—"Ah! I have sighed to rest me." But even these selections did not fully satisfy the longing within her. She gave herself to improvising and ran the gamut of her tossing emotions. It was an easy transition to the *Spring Song*. Tears wandered down her cheeks. The tenderness, the pathos, the inspiration, drew the mother to her side. As the last note was struck a loving hand was upon her shoulder. She drew the hand to her lips and caressed it, but turned away her face.

A thought—a hope—which the Italian singer had awakened would not leave her. Alexander was in his eleventh year and had developed beyond his age. He had inherited his mother's musical nature to a marked degree and had a rare—a very rare—voice. Alice was training it as well as she could, but she had not the vitality to continue the instruction and her teaching at the same time. Oh, if he could become a pupil of Signor Timponi! The boy was young, but she knew that most musicians of note had begun their studies very early in life. It was a dream! But that in some way it should be made possible for Alexander to secure ordinary voice culture seemed not too much to hope.

The faithful Rector, investigating the growth of the

church, had become convinced that it expanded least in those parts of the country where ritualism was rampant, and he looked with no favor upon many of the prevalent innovations of the time, but he had been finally persuaded to gratify the almost unanimous wish of the congregation for a boy choir, on the ground that it would be helpful to the boys. He invited Alexander to become a member. The boy's voice was so clear and sweet that he was soon assigned a solo; then a number more difficult and with some "embroidery," as Alice termed it. Before long he became the regular soloist, and the family ventured to church and listened with a pathetic satisfaction, for it was the only thing in their lives which resembled joy.

Even under the adverse conditions Alice's pride became involved. She induced the choirmaster to assign to Alexander the song of Händel, *Angels Ever Bright and Fair,* and took the lad for coaching to Signor Timponi. She attended the rehearsal and easily foresaw that he would create a *furore* on Sunday.

When the morning arrived the boys were jostling one another in the robing-room, tempered or aggravated by their little attractions and antagonisms.

Alexander was shoved about more than usually, for jealousy was tormenting them. He resented a vicious push, and then it developed that in his excitement over the prospective solo he had put on the robe of another lad.

"You'll come to a bad end," taunted the boy in front.

"Your father'll hang, and you, too!" added one at his right.

Another boy jostled him roughly.

One of the men of the choir interfered, but Alexander flipped off his robe and darted through the side door.

For a week the Rector pleaded; the choirmaster promised that Alexander should be thoroughly educated in music if he would return; he should even be placed under the instruction of Signor Timponi. But it was to no purpose: nothing moved the boy.

To make matters worse, Alexander encountered a similar experience in the public school and refused to go on with his studies. This last affliction seemed unbearable, but Alice soon rose above the submerging sense of disappointment and injustice, answered various advertisements and visited many of the business houses, never faltering nor tiring in spirit and

never complaining, determined to secure Alexander a position. Employment was found at last, and he was installed with an earnest admonition not to fail after all her care and trouble.

It was a pittance that he received, but he was started on the way to self-support, and, if nothing else had been gained, he was fairly safe from the attacks of other boys.

For a time Alice spent a part of each evening assisting him with his voice, but it was a great strain. Her lessening strength was more than taxed by his broken spirit. It was a double burden, too heavy to be borne for a long journey, and it was finally cast off.

CHAPTER XXVI

Retrospect

Age steals upon us like a snowstorm in the night;—
How drear Life's landscape now. —*Carleton.*

COLONEL SICKLES had arrived at that period of life when prudence demands special care of the physical machinery. The severe sickness which he had fabricated to gain delay from the District Attorney came on in truth with a rush, and he turned over to his clerk much of the work of the office. George, now familiar with ordinary court procedure and accustomed to the hard work of a lawyer in active practice, was making up for lack of early opportunities by attendance at the night schools, supplemented by a laborious evening course of general reading. He studied, also, critically and habitually, after his day's work, the decisions of the courts of his own State as fast as they appeared in print.

He had the entire management of the office, and many of the clients consulted him freely and with

confidence. As he was given more responsibility he assigned to himself the task of urging the Colonel to dispatch business. Proscrastination, the besetting sin of the profession, had its hold upon the employer, and it was of great service to have a clerk who would constantly watch the cases and prod him into keeping them up to date.

The Colonel's physician had recommended with insistence a sea voyage. Haste was necessary that he might return before the Court of Appeals should act on Beckwith's case, and he hurried off, leaving George to take care of his practice. For six weeks the Colonel remained on shipboard, taking time to stop at some of the Mediterranean ports and to run through England and France.

On the day of his return he invited George to his home, and lawyer and clerk spent the evening together. There was much to be considered, but his trip had been highly interesting and he liked to talk about it. Reluctantly many affairs of the office were given first place and then he described entertainingly some of the incidents of his vacation. Taking a fresh cigar, he smiled as he lighted it.

"I suppose Dr. Burke would not approve of my

smoking three cigars at a sitting, would he, George?"

"The Doctor called at the office today—only to welcome you home, however."

"Speaking of Burke reminds me of poor Beck. I ought not to have consented to take that case. My powers were on the wane, and I should have realized it—but we never do!"

"You ought not to reproach yourself," said George. "If a lawyer defends forty-odd capital cases and has only one death sentence, he cannot complain—and the conviction is not yet affirmed."

"But it will be," interposed the Colonel. "The result was a heavy blow to me, but I've felt a little easier since I gave the women my fee—the seven hundred dollars, you remember. My boy, I believe I'll make a confession to you!"

"And then I have one to make to you!"

The Colonel stared in an absent-minded way and continued:

"I would have had a chance to win that case if my plans had not miscarried. You remember Wilson of Philadelphia?"

"Certainly."

"You know, he and I have been in the habit of exchanging favors. Well, I asked him to send over

a sleuth—I thought a New Yorker might be known to the State's detectives. I told him I wanted an Apollo—who could make love. He filled the order perfectly, and I instructed my man to pay court to the young woman, the confidential stenographer of the District Attorney. He made rapid headway, so much so that the girl began to be really interested, and this undid me, for she slacked her work or confided in somebody—at all events her employer put one of *his* detectives on the track of the girl and soon uncovered the plot—just as my man was on the eve of succeeding. If there had been money enough I'd have got inside information some other way, but we could not raise the wind. Everything went wrong in that case. And it all came with such smashing force upon the women, particularly Alice! I remember the last time I saw her and the pity that entered my heart as I thought how wifely she is, and yet how probable that she is destined to spend her life alone, marked as a murderer's widow. I recall her dress and hat and all. That locket! George, did you ever reflect on the graceful provision of nature which preserves the human hair, that we may keep one imperishable personal memento of our friends?"

"Never in that way," replied George abstractedly.

The Colonel was looking into space. Turning in his chair, he threw one leg over the other.

"Well, George, let's have *your* confession. What is it?"

"Nothing much. Mr. Miller had a client named Tower whom he served in a delicate matter. I doubt that there was another lawyer in New York who could render such a service—no one in a position where he could. I knew how Tower felt—heard him acknowledge that he would have been ruined but for Mr. Miller. So, when things were darkest, after the trial, and help most needed at the house, on my own responsibility I hunted him up and told him the situation. He lives like a nabob in bachelor's quarters such as I'll never see again. He received me graciously, gave a fine exhibition of royal manners and promised to look into the matter immediately; but that was the end of it. How is that for gratitude!"

"Not strange," replied the Colonel. "Not a bit strange. The way of the world! Don't let that bother you!"

He took on a broad smile and continued:

"George, I'm an impostor! Tower paid the expenses of that Philadelphia sleuth. He asked *me* to come to *him* not long after Beck's arrest—did not

want to be seen in the office! Spoke of the obligation you refer to—his surplus funds were limited, but he would aid in any specific way within his means. I suggested footing the bills for the detective, and he readily consented on condition that it be kept a secret—so I'm telling it! Ever since then he has paid, through me, the interest on the homestead mortgage, which quieted the owner, and we've let Shylock pass for a philanthropist! And Collins never paid that three hundred dollars—it was Tower. You were a little hasty in passing sentence on the man, although he did have a dread of getting mixed up in the 'scandal,' as he called it. You see, I'm a wretch! But the boy—how's he getting on?"

"He's at work."

"Is he sensitive about his father?"

"Very! He seems ashamed to be seen anywhere except at the store where he works, and at home. It is pathos enthroned—the whole picture is an appeal!"

The Colonel struck a match. As he relighted his cigar he exclaimed between puffs:

"You are eloquent! If I had stayed away much longer you would have become invincible."

He took George by the hand and exclaimed impressively:

"We must do our duty by the boy!"

George took to heart these last words. He longed to see Alexander well started in life with the promise of a bright future. But what could they do for him now? An education was out of the question. His opportunity in music had passed. They could help him to become a useful man, but that was about all. He remembered how he had envied Alexander in his babyhood the smooth pathway that would be made for him. How circumstances had changed!

As he went up the steps of his home he said to himself:

"I'm glad I sent those roses!"

CHAPTER XXVII

Ninety-two Days

She expressed herself with a purity, with a harmony and prosody that made her language like music, of which the ear could never have enough. —*Rioffe.*

THE Colonel was happy to be again in his office. There he spent most of his waking hours, and he had an affection for the place not diminished by his absence. He took up his duties with determination, but after a few days a feeling of languor took hold of him.

He was discouraged.

Evidently the ocean voyage would not prove of lasting benefit.

He called his clerk.

"George, how would the firm name of 'Sickles & Ennis' strike you? I have Beck's consent to it."

The young lawyer was embarrassed. He had reached the goal, but he could hardly believe his senses.

"Nothing could please me more, as you must know," he replied in an unsteady voice.

"Draw up the papers. It shall be an equal partnership. I am old, and I might as well admit it—to you. There's no need of standing at the door and proclaiming it to each man who enters, but between us, *as partners*, there must be no secrets!"

"Certainly not," said George, glad of an opportunity to say something. His heart was beating fast. "Certainly not. But you are vigorous and good for a generation yet."

"Well," observed the Colonel, "you remember the client who said he wanted to get into a business that was 'reasonably honest'? I am 'reasonably' vigorous. But that's not it. I don't intend to work as hard as I have. I must take life easier—and let the junior partner work."

"I'm willing to!"

"I know you are, and you work intelligently. I've a notion you thought I might make you an offer of partnership, and with that in view you kept things in such excellent condition."

George smiled an admission.

"That's all right! You perceived the opening and ought to be rewarded for your foresight. I reward

you, also, for your loyalty and the faithful discharge of your duties. I've looked into things carefully since I came back, and you have done handsomely. So 'Sickles & Ennis' it shall be! But let me warn you. Men do well in adversity; few can stand prosperity, and fewer still power or position, particularly if suddenly acquired. 'Be not puffed up!' To change the subject: I've another secret you ought to know—now that we are partners. You remember Hodgkin—the miser—left Beck twenty-one thousand! Did it ever strike you there was something queer about that odd amount? No! Well, it did me, the minute I knew of it. These are the facts: Twenty thousand was for a secret purpose and the rest for executor's fees. The old fox imposed on Beck an unwelcome task and then used it as a means to beat him out of most of his legitimate fees. And Beck was so hard up he had to submit. I was afraid to bring this out in evidence, for he had flatly declined to tell me what the secret purpose was—said it involved the reputation of another—and he insisted he would refuse to tell in defiance of an order of court, if it came to that. A nice kettle of fish! Two or three times I saw the District Attorney veering around in that direction; I managed to slip by, but it was close sailing!"

The Colonel shrugged his shoulders, walked to the window and stood with his hands jammed down in his pockets.

George was writing a draft of the partnership agreement when the Colonel, looking over his shoulder, rested his eyes on a small piece of paper pasted on the desk immediately in front of him, upon which were written the words:

> *"But they, while their companions slept, were toiling upward in the night."*

A few days later an untraceable report was circulating.

Alice flew to her counsel.

"Have you heard the rumor, Colonel? The Chief Justice of the Court of Appeals is writing a decision —or opinion—in Beckwith's favor!"

"Yes—many times. It is persistent, little woman, and that makes me feel there is some truth in it."

Soon afterward the Colonel was again justified: the Chief Justice did hand down an opinion, and it was favorable to the prisoner—a dissenting opinion,

the remaining judges affirming the conviction. With this defeat Beckwith's executorship and trusteeship collapsed. At the same time all hope of obtaining the legacy dissolved; nothing remained but the prospect of empty court proceedings with an adverse result, complete as well as certain.

But the Colonel was a true lawyer and had not contented himself with a single method of procedure. Knowing he could not get a pardon, he had been carefully preparing an elaborate application to the Governor for a commutation. If the penalty could be changed from death to life imprisonment, hope, at least, would remain. This he now presented and pressed in person. He was not unaccompanied, for Alice had demanded the right to be present.

The Colonel related to the Governor how he and his client had believed before the trial that they had a chance to secure at least a disagreement, with one juror, possibly two, standing out for acquittal, and how their belief had been confirmed in his office immediately before Miss Hodgkin's visit. He minimized the part he had taken in prompting Beckwith's tardy decision to reject the favorable juror. He rehearsed the statements made in the written application, laying stress upon a few propitious circumstances which had

come to light since the trial. His client had been duly convicted, so far as the forms of the law were concerned, but the trial had not been fair under any proper standard of actual justice. The Judge had been academically impartial, but wholly impassive. While the law presumed a man innocent until proved guilty, the chill of his personality had frozen the presumption in the hearts of the jurors. The prosecutor had lived up to the law of procedure, but had shackled the defense by the willful and unethical postponement of damaging evidence respecting the den. The jury had been hypnotized by a hired genius of irresistible power. Money had been lavishly expended in aid of the prosecution and had distorted the perspective of witnesses, communicating an evil influence to the jurors. The Court of Appeals was divided and even in its majority opinion had virtually admitted a doubt. These and many other arguments were pressed with great earnestness and plausibility.

After the District Attorney had defended his objections, the Colonel addressed Alice:

"The Governor will no doubt be glad to hear from you, Mrs. Miller, if you desire to be heard."

A nod of acquiescence found Alice for the first time attempting formal utterance. Devotion to a cause

and a heart wrung by terror and sorrow rendered her entirely forgetful of self. Without embarrassment or hesitation she made a fervid supplication.

"I speak with confidence,"—were her closing words, —"the confidence inspired by a modest American home in which unselfishness and love are never absent. Having no knowledge of the law, I am able to add but little to the words of my staunch friend, but I insist that a man will reveal his true self by his daily acts and words, if weighed by a woman's heart and head and intuition—even though the woman have the bias of a mother or wife. For his mother, prostrated in her home, and for myself, I am grateful for the chance I have had to again make public our belief in the innocence of a devoted son and husband. No matter what the law may say, where deliberate murder is charged, a noble character, manifested in countless ways through many years, is a complete answer to any array of circumstances."

Sensing that the Governor would deny a commutation, she pleaded for a reprieve.

"There is no need of haste: my husband cannot escape, even if he desired to. Surely you, Governor, who are able to grant it, will not deny *time!* For time can tell, time *will* tell the truth—in some way.

The faith of those who come the nearest to knowing is unshaken, and they ask, in the name of mercy, that you retain for a time at least the power to right a horrible wrong."

The plea was brief, but the dramatic effect of the supreme moment, aided by the music of Alice's voice and the flutter of her accent, melted all hearts.

The feeling that dominated the Colonel was pride. He knew that a crisis may work a miracle in developing ability, but he had never been more surprised nor more gratified.

The Governor looked grave, endeavoring to hide the emotions stirred within him by this last entreaty.

"I am deeply impressed," he observed, "with the sturdy nature of a prisoner who would refuse the aid of a corrupted juror in so perilous a situation. The act seems inconsistent with guilt. Still the judge who tried the case and the prosecutor are sure. I ought not to interfere, but I will grant a stay of execution for sixty days."

Alice pleaded again: "The time is so short, Governor. A little longer!—a little longer, Governor!—ninety days—I beseech you!—oh, don't deny it—no harm——"

The Governor raised his hand and turned to his

secretary: "In justice to this noble woman I will make the time ninety days—ninety-two days—that will make the day Friday."

Redoubling his exertions, the Colonel tried in every way to unearth further evidence of innocence.

Time passed quickly with Beckwith, who was occupied with the preparation of a long writing, and George called every day or two with a library book.

After his conviction the prisoner was held with a tightening rein. Frequent visits with his family were not permitted, nor was he allowed to see them without the presence of a guard. But even these meetings were a blessing.

The fatal day was approaching, and some reminder of the fact was not infrequently at hand.

In the cell adjoining Beckwith's was a prisoner under sentence of death. This doomed man was asked a few hours before the time set for his execution if he would like to walk down the corridor. He refused the privilege, saying he was afraid he would take cold. A convulsive laugh escaped Beckwith, but he checked it and turned in his bed with his face to the wall.

An hour later he overheard one of the attendants:

"The pigeons are flying."

He knew what was meant. For a generation a flock of pigeons had made their home in the Tombs, and it was one of the superstitions of the place that immediately before a hanging the birds would circle over the waiting gallows.

Beckwith saw the prisoner go forth on his last journey. The click of the mechanism told him the exact moment of the man's agony. In imagination he could see the culprit's heavy form jerked upward into space. Then he heard the body fall heavily to the end of the rope.

CHAPTER XXVIII

The Letter

The thread I held has slipped from out my hand:
In this dark labyrinth, without a clue,
Groping for guidance, stricken blind I stand,
A helpless child that knows not what to do.
—*Bayard Taylor.*

A DEATH WATCH was guarding Beckwith. Time was becoming precious. He must now determine when he should have his last visit with his family. They would naturally desire to see him at the latest possible moment, but it was, of course, out of the question that they should be with him at the very end. The morning of the last day was likely to have about it many signs of preparation with which he must not distress them. Pride, also, entered into even this extreme situation. He could meet death with dignity, but his nerves must not be unstrung by a visit on the morning of the execution. This minor reason, and the controlling consideration of shielding his family, led him to choose his last full day on earth for their final farewell.

They did not remain long together. The guards

spied upon them intently and impatiently. This was intolerable, but it made the parting less pathetic. The goodbye was held in check, for none would add to the burden of the others. As Alice led Alexander away Beckwith noted that she was able to maintain a firm and steady step. He was stifling with the agony of the hour, but sustained by the last look of those miraculous eyes, and a sublime sense of admiration came over him.

"Such is *character!*" he proclaimed, and, inspired by the thought, recovered possession of his will.

Later in the day the Rector came to the cell and read the form of prayer established for the visitation of prisoners.

Beckwith joined in the service. He knew in a general way that such a form was in the prayer-book, but he had never read it through.

As the Rector proceeded Beckwith grew restless with combative thought.

The clergyman read:

"'Lastly, beloved, submit yourself with Christian resignation to the just judgment of God which your own crimes have brought upon you.'"

A signal of interruption crossed Beckwith's lips, but it faded away.

Following the direction of the church law, the clergyman now exhorted the doomed man to confess the sin for which he was condemned.

Beckwith gazed steadfastly, with an unfathomable look, at the man of God, but gave no sign of breaking silence.

"A little more insistence may penetrate this stubborn will," reasoned the Rector, and he renewed the exertions enjoined upon him by the rubric; but all that his tongue would do was to repeat dogmatically what he had read before.

Beckwith shook his head as if to say, "Not now!" Touching his fingers to the prayer-book, he gravely asked, "Can we not go on?"

The service completed, he reached out his hand.

"May I see the book?" he inquired, and he glanced over the words.

Then he spoke, emphatically and deliberately:

"I am astonished at the language of this service. It assumes that because a man is convicted he is guilty. Its object is to give comfort, but if the man happens to be innocent it only harrows or angers him. Listen to this: 'After you have thus finished the course of a sinful and miserable life you shall appear before the Judge of all flesh; who . . . shall . . . say,

with a terrible voice of most just judgment, to the wicked, Go, ye accursed, into the fire everlasting, prepared for the devil and his angels.' "

"I see the force of what you say," said the Rector, meekly, "but I cannot alter it. Human law is founded on divine law, and the church assumes that human law does not err."

"Then I wouldn't read the service, if you will pardon my saying so. It makes you a paid servant of a religious corporation—a parson—when you ought to be a minister. But your premise is wrong, my friend, anyway, for the books tell us that human law is not founded on divine law."

"I am not prepared to argue the question," was the apologetic answer. "In all my ministry I have never before been called upon to perform an office of this kind."

"Yes! The man may not be guilty," thought the clergyman, and resolved not to use the service again, but he was not ready to condemn it in the presence of a layman—particularly in this case, for Beckwith had not in words claimed to be innocent.

The errand of consolation was a failure.

The prisoner was lost in his own reflections, and his visitor felt humbled.

Presently Beckwith relieved the situation.

"I shall probably be executed," he said, drawing his shoulders back as if bracing for an attack. "I certainly shall, unless the Governor intervenes. Are you willing to go with me to my execution?"

"I am always ready to do my duty."

The man was weak physically and nervously, and dreaded such a voyage upon the waters of bitterness.

"Well," observed Beckwith, "I will spare you. You would never forget the ghastly sight. And my courage is ample, for in this hour, as in every other since my wedding day, I have my inspiration."

The Rector shuddered. "I am willing to go," he repeated, "and I hope you will not regard my feelings."

His voice trembled with sympathy. Guilty or not, the situation was pitiable. But he felt unequal to the task, although he would have given his life rather than shirk a substantial duty.

Beckwith looked at him sadly and again affirmed that he preferred to meet his fate alone.

The Rector left in an uncertain frame of mind. One question drove all else from his thoughts:

"Is he guilty?"

The next morning George appeared with a letter,

specially entrusted to him to make sure of its early delivery, so that there would be ample time to read it. Beckwith turned his back to the bars and his sentinel and read:

My Beloved:

Mother and I are satisfied this evening with your decision respecting to-morrow. It seems cruel that we cannot be with you then, but if we should it might be more than cruel to you, and perhaps, as you say, to us. After all, it would be but the meeting and the looking once again through the eyes to the soul of my innocent husband. We yet have the free and secure communion of our hearts, which no cruelty can mar. And it is all we have left which we can call our own. Every other sacred thing must have its witness—its spy—its paid spy. What is life worth if it were to continue thus—to you, dearest, or to me?

Do not worry about us. Our boy will be our mainstay, and my life's work shall be to make him a living testimony to the innocence of his noble father. Soon he will be a man. And responsibility, as I have heard you say, dearest, is a great developer. So we may the sooner expect the change in our little young giant. Think of the comfort he will be to dear mother and to me as he grows and pushes out into the world, bearing manfully his burdens and being always true to himself, to his home and to the memory of his father. And the nobler he grows the more his life will be a complete vindication of you. Is not this the true philosophy of our affliction?

You must feel that this experience will not embitter my life. It might easily, if I would permit it; but, remember, I have firmly made up my mind, dearest, that I will not allow myself to be one bit resentful, but will feel kindly to all the world. Otherwise I could not cultivate in Alexander that spirit of humanity which would make the extreme of misfortunes like ours impossible.

So you must think of me as trying to bring out the best there is in us, and I am sure, with the foundations you have laid, all will go well.

And now, *darlun*, you have always been fearless, and I know you always will be. Alice will be, too. If your fate should come, as it seems it must, meet it, and I will meet mine, as the other martyrs have done. We should have to separate in a little while anyway. And very shortly we will be together again, free and happy, with Mother and Alexander, better friends because of our sorrows. Meanwhile remember our never faltering faith in your perfect innocence.

I shall kiss this letter where it is sealed in the belief that you will press it to your own dear lips.

Your brave wife,

ALICE.

A card dropped from the letter. On it were written some lines not unknown to Beckwith:

I keep for thee the living love of old,
And seek thy place in Nature, as a child,
Whose hand is parted from his playmate's hold,
Wanders and cries along a lonesome wild.

Later that morning, close to the river, due west from the Tombs and almost in sight of it, there was a gathering in the back room of a saloon called "The Wharf," a training-school for murderers.

The men threw dice, sang songs, divided stolen goods, drank, and drank again.

They raised their glasses:

"Here's to Miller! May he die game!"

CHAPTER XXIX

GETHSEMANE

Soft on the sunset sky,
Bright daylight closes;
Leaving, when light doth die,
Pale hues that mingling lie—
Ashes of roses.

—*Elaine Goodale.*

. . . On my day of life the night is falling,
And in the wind, from unsunned spaces blown,
I hear far voices out of darkness calling
My feet to paths unknown.

—*Whittier.*

THE night after the last visit to the Tombs was never to be forgotten by Alice or the mother. All memories are dulled by time, and even the horrors of the most hideous torture cause less of a recoil as the months pass. But in many lives there is one experience from which, to the latest breath, memory shrinks. This night of nights in the home of the condemned man was rendered the more terrible by the long stretch of suspense through which the sufferers

had traveled. After the parting at the jail and until the sun sank in the west Alice managed to keep her courage. As twilight advanced hope departed, and when darkness settled down despair took complete possession of her, to be thrown aside only long enough to write the farewell letter. Then Nature, ever prepared for unusual demands, asserted herself, and Alice sank in her bed exhausted. She rested, but her mind found no repose. The cherished Colonial clock turned into a vindictive enemy as it ticked away its owner's life. She noted each swing of the pendulum. Every stroke of the hour seemed a blow upon her heart. It would have brought enough for a few days' subsistence—why had she not sold it when necessity was speaking in tones of command!

In her semi-slumber the picture of her husband, waiting alone and watching in silence, caused a shudder that awakened her with a jolt. A sad smile crossed her lips. When the time of parting had arrived, Beckwith had been compelled to give to mother or wife the last kiss. He had freely made the choice. All the tenderness of maternal care for so many years had not outweighed the love for his little wife, and she had been the last to touch his lips.

She fell into another doze, to be again aroused by

the relentless clock. The dreaded Friday was at hand; the morning was passing, but she could not leave her bed nor comfort the mother, as she had resolutely determined to do. As noon approached the glassy look in her eyes changed to a fixed stare.

Mrs. Miller mortally dreaded a recurrence of the malady which had threatened her daughter's reason. She desired to respect the wish that they should be alone, even to the point of not calling a physician, but responsibility made her hesitate.

The hands of the clock moved on toward twelve.

Still she hesitated.

With her indecision the big timepiece had no sympathy.

It ticked on.

A quarter to twelve!

Starting suddenly, Alice frightened Alexander, now afraid of her and yet unwilling to leave her.

Mrs. Miller could see the cell-door swing back—her devoted boy, with dignity and poise, moving to his death—the black cap, and all the other ugly accompaniments of an execution. And she saw in his hand the mysterious manuscript ready to be delivered to the sheriff. Often she had wished that the Lord might take her before Beckwith's fate was consummated. To

live to see him a condemned murderer was hard, but to survive his death upon the gallows seemed a sorrow beyond her strength. And she was failing rapidly: the strain, the grief, the disgrace had done their work.

Without warning, rising in her bed and looking like a maniac, Alice shot forth a piercing scream that froze Alexander and brought the mother to her feet.

She rolled her eyes, twitched convulsively, threw up her arms and fell back like lead.

Mrs. Miller bent over her and listened.

The heart had ceased to beat.

Watching more closely, she saw the lips move and her charge gradually revive.

The mother now waited for the next scene in the grewsome tragedy. She shrank from each noise of the street. It might be a newsboy, and she feared his cry: "Extra! Full account of the execution!" And the cry of his companion: "Extra! Extra paper! All about the confession of Miller the murderer!"

CHAPTER XXX

Lex Talionis

Revenge is a kind of wild justice, which the more man's nature runs to, the more ought law to weed it out.

—*Bacon.*

He told how murderers walked the earth
Beneath the curse of Cain,—
With crimson clouds before their eyes,
And flames about their brain;
For blood has left upon their souls
Its everlasting stain!

—*Hood.*

Fierce in dread silence on the blasted heath
Fell Upas sits, the hydra-tree of death.

—*Erasmus Darwin.*

THE partners in law were at their office early that Friday morning, but work was suspended.

A messenger commanded the attention of the ever alert Colonel.

"Come at once. Don't delay a moment!"

"A note from the Emergency Hospital, George—our first case! We must be off!"

At the hospital they were hurried to one of the beds reserved for serious cases. They looked into the

face of a dying man—a professional criminal, they had been told, whose conscience was demanding to be released from a burden before death claimed him.

The Colonel turned to the superintendent:

"Here, madam—you, too, nurse—Miss—Miss—Miss Ayres—now both listen and don't lose a word!"

He bent over the bed.

"Talk up a little, my friend!"

The patient spoke with great effort, but his labored confession was circumstantial.

He had been for many years the janitor of a college of pharmacy. Naturally quick to learn, he had picked up, with other things, a good deal of information about poisons. Later he had fallen into the criminal class; then into the ranks of the dangerous, joining the gang which made its headquarters around Macomb's dam bridge. Robert had been in their way, and it was necessary to put him to sleep! Not without difficulty he had obtained some French digitalin, unscrewed the mouthpiece in the large pipe which Robert kept in the boat, and inserted the drug in the stem and bowl in such a way that anyone who used the pipe would draw into his mouth enough of the poisonous powder to cause death. He had restored the mouthpiece and left the pipe in an upright posi-

tion, filled with fresh tobacco, trusting that its owner would light up without first emptying the bowl.

Colonel Sickles knew that the administration of the drug in this way was feasible. While digitalin is acrid to the taste, its bitterness develops slowly. The juice which settles in a pipe is also bitter, and the taste of a constant smoker is dulled.

The Colonel lost no time.

"George, jump! In that room—write out the story."

The Colonel dashed down the hall.

"Is this you, Watrous?" He was telephoning the Governor's local factotum.

"Yes, who is it?"

"Sickles. Where's the Governor?—I want him quick—I've got a confession that will clear Beck Miller——"

"The devil you say! The Governor's in Albany!"

"Now, here, we haven't a minute to lose! I want a reprieve. I'm at the Emergency Hospital, understand—when I leave here I'll go to the courthouse and then direct to the Tombs, but I'll wait here to get the confession signed. You wire the Governor; I will, too; and I'll get the Judge to do the same. Look out for mishaps! Move quick! I'll go right to the Jailer's

office and work from there! Telephone the Sheriff I'm on my way—he's there by this time! Keep me posted! Goodbye!"

The Colonel seized the telephone directory to look up the nearest livery.

"I've got it—it's right at the door—two horses—the best in town!" spoke a familiar voice.

The face of the Colonel brightened. It was Robert of Florence's Hotel.

"I guess you're responsible for this!" the Colonel exclaimed. "You're all right, Robert! Wait—I'll write a telegram to the Governor!"

He darted to the table and wrote vigorously.

"There—speed the rig—give the operator an extra dollar—then come back here on the run—here's the money—quick!"

The partners hastened back to the sick man.

The nurse was shading the patient's eyes and the superintendent raised a finger. They were in the presence of death!

The Colonel bowed his head, ran his fingers through his hair and tiptoed out of the room, George following.

They found the negro and his carriage at the door and were soon on their way.

"You must have been at work on this for a long time, Robert."

"Yes, Colonel."

"By the way, Robert, I've always wanted to know a thing or two. Chief Campbell had you in charge from the time of the fishing party until the trial, didn't he?"

"At his cousin's—in the country—yes."

"Lived pretty well up there?"

"Yes. I thought then that Miller had done the old man, but I wasn't sure. I said to myself, 'If I tell the truth I can't wrong anybody.' And I did tell the truth!"

"No doubt of it—not a bit of doubt of it. Is it true that Miss Hodgkin paid the Campbells?"

"I believe she did. Everybody knew she had the cash, and they were after it."

"I don't suppose you got any of it, Robert. How about that?"

"No, I guess they thought they could get me better another way. They told me I was to get a new boat and go on the police force or the fire department—and some other things."

"But you didn't get them?"

"No, sir. They were foxy. They didn't come right

out and say, 'We want you to swear so-and-so,' but they came at me this way: 'Don't you recollect when Hodgkin was taken sick he turned to Miller and said, "What was in that capsule?"' They tried a lot of such questions on me and read statements of people, but it's easy to write statements. You see, Colonel, I knew there was going to be trouble for somebody, and I was particular not to let them do anybody by using me. The white folks are mighty handy sometimes when they want to use my people, but I've got a little education and some conscience, and they didn't fool me. They didn't bluff me, either. And I told the truth! And I got no new boat! I knew I wouldn't unless I did what they wanted, but they wanted wickedness. I began to think they were on the wrong side of the case. I kept my eyes and ears open, and you have the man that did the job."

"Then you know the facts?"

"No, not a word—I have no *evidence*—only knew that *he* knew."

The Colonel had his dun brother by the hand.

"You're a noble fellow, my friend. I take my hat off to you! Here's the confession—read it——"

"Is the Governor coming?" interrupted Robert.

"In Albany!"

"Are you sure? I couldn't get hold of you, so I had the new chief wire him last night to come here—felt we ought to be ready."

When they entered the courthouse the partners drew close to each other, so that Robert could not overhear.

"George, that negro is a fine character. In our conceit we think our race has all the virtue, all the wisdom and all the energy in the world. A little humility wouldn't hurt us."

With great difficulty, and only after some delay, the Colonel succeeded in persuading the Judge to interrupt a hearing. Then each word of the confession was scrutinized, and the three petitioners were cross-examined. Time was still rushing on while the Judge considered phraseology so that his recommendation might not be too mandatory.

All this time Colonel Sickles was burning with impatience, but outwardly calm.

George was left to wait for the apostle of deliberation, with instructions from the Colonel to rush a telegram, while the veteran lawyer and Robert were galloped to the jail.

The Sheriff and his chief deputy were on hand. They were nervous. On the table was a bottle from which the actors in the approaching tragedy were imbibing. It was the custom.

The Colonel gave the confession to the Sheriff. The Sheriff passed back a telegram.

"Here," he said. "Here's something you're interested in."

The lawyer read aloud:

> Governor taken suddenly ill at West Point on way to New York. Notify Sickles.

"Have you wired West Point?" asked the Colonel, while Robert was wiping the perspiration from his brow.

"Not yet," answered the Sheriff. "It's a hard place to get, anyway! Military! Red tape! Cocky—the whole lot! But here! this confession isn't signed. What kind of a game is this? Watrous said you had a confession—this isn't anything!"

"Yes, it is—the man died—I was there and heard it—and my partner, too."

The Sheriff was red in the face. With a sneer he threw the unsigned paper on the table.

"Some game!" he mumbled. "Some game of you rotten criminal lawyers!"

Robert swung quickly out of the room.

"We were summoned to the Emergency Hospital," resumed the Colonel. "Just came from there—my partner and I. But—before I forget it—you advised Watrous of this telegram?"

"Yes—read it to him over the 'phone."

"Well, that's covered—now, my partner wrote out the confession in a hurry to make sure to get it signed; but the man died before we got to it—the paper's all right, though—here he is now! George, you heard——"

"Certainly—the confession's absolutely correct—no doubt about that."

"Anything you want to ask him, Walt? No? Well, George, hurry back to the telegraph office and change that telegram. Send it to West Point—the Governor's *there*."

"That's a great boy, Walt," the Colonel observed as his partner hastily left, "and very accurate—you can rely on him——"

"Yes," broke in the Sheriff, "you can rely on his saying exactly what *you* want. There's something wrong here!"

"But here! this confession isn't signed."

The Colonel turned the pages of the telephone directory.

"Don't be a fool! You see the number—now you'll know I'm really calling the Emergency Hospital—there can't be any mistake about that!"

A scoffing grunt escaped the Sheriff.

"Hello—Emergency Hospital? Let me talk to the superintendent. Just left! Then let me have Miss Ayres.—She went with her! Where can I get in touch with them?—it's important! Didn't leave any word! Well, be careful about this—a man's life is at stake. When either of the women gets back, have her call the Tombs and ask for the Sheriff, and don't delay.—All right!"

The Colonel whistled.

"What's the use of all this, Walt? You don't need these women to vouch for us!"

"You fooled me once—I've not forgotten—you'll not do it a second time!"

The Sheriff took another glass of whisky and shook his head with determination.

"Oh, get some sense in your brain! You're sheriff, but you're a *man*—don't forget that—you aren't going to strangle that innocent prisoner if we slip up on this thing, are you?"

"What would *you* do in my place? You're a soldier—you know what orders are for—they're to be obeyed! Now, what's your game? You're not on the square—that's sure!"

The Sheriff was called out mysteriously, taking the confession with him.

While the Sheriff was still out, George returned.

"I think Watrous and the Sheriff are conferring together, Colonel," he confided.

"I divined as much. They've been out a long time."

When the Sheriff entered the room again he looked more sour and determined than ever.

"If the Governor hadn't fixed the *hour* of the execution, we'd be all right!" exclaimed the Colonel. "Don't fret—we'll have word from him—or we'll hear from the hospital women—so you needn't be making any preparations."

"They're all made. They'll go right on. Hear that murmur—it's the spectators!"

"What's got into you, Walt? You're not human—you've got the heart of a murderer yourself. I've stood all of this I'm going to—I'll raise hell here if you don't change——"

"I know my job—you can't bully me. Suppose you've got a fake confession!—you're not above it—

then the man goes free because his sentence wasn't executed—you'd raise the question yourself——"

"No," interrupted the Colonel. "I never will."

"But some other lawyer will—this is a lawyer we're hanging! He knows! Then where'd I be?"

"Come now, we're no confidence-men—we aren't going to sacrifice you because you protected us. We can resentence, anyway, if a prisoner isn't hanged on time."

"Doesn't apply to a case like this. You needn't waste your time talking to me about that—I've got my own opinion on that matter."

"So have I," volunteered the deputy, as he left the room.

"He'll act—that deputy of mine," said the Sheriff. "We've got to move quick!"

The Colonel grabbed the telephone again:

"No word from your superintendent or Miss Ayres? The time's getting short—don't delay a second!"

"Four minutes!" exclaimed George.

They all rushed to the yard, where the death scene was in progress, and pushed their way through the savage, red-faced crowd, the Colonel shaking off a swarm of reporters and arguing with Watrous, who had joined them.

Beckwith was ashen pale. His eyes were flaming with restrained terror. But his lips were pressed tightly together and his teeth were set. In his hand he held a roll of manuscript, and when the Sheriff came near enough he gave it into the hand that was about to destroy him.

"The confession!" whispered the reporters, and one tried to grab the roll.

"Miller can be resentenced," the Colonel urged again.

"I told Walt that," replied Watrous, "but he's got a big load of liquor—he won't budge!"

"He'll sign a consent," pleaded the Colonel.

Watrous took the Sheriff to one side, and their raucous bickering could be heard above the mutterings of the jostling men.

The Colonel put his arm around his client and spoke in a low voice:

"Beck, we've got a confession, but the man died before we could get it signed. We can't get hold of the Governor, and the Sheriff's stubborn drunk. It looks bad, but keep your nerve——"

Watrous came to the side of the Colonel.

"It's no use!"

The Sheriff adjusted the cap. The crowd was

pushed back. All took off their hats in preparation for the signal. And each man held his breath.

A mighty yell turned the faces of all toward the jail. It was Robert, running at top speed, followed by the Jailer and two women.

In a flash the Colonel exclaimed to Watrous:

"The superintendent and the nurse!"

At a single jump Watrous was behind the Sheriff, pinioning his arms to avert the signal. "The hospital women are here," he whispered.

"To hell with them! Let me loose!" The Sheriff was struggling, but finally drew to one side and talked with the women. He was obstinate, and liquor had aroused in him the latent desire to kill. He lashed the astonished women with rough language; but a moment later his deputy, in obedience to orders, unloosed the cap and unbound the prisoner.

Beckwith was led back to his cell.

"Go, Colonel—George," he said, with such voice as he could muster, "as fast as—you can—to my home—and—tell them—with love——"

He could say no more.

"Hurry!" interposed Watrous. "I'll take charge here, and I'll be in West Point tonight."

The partners did not linger.

"That's the closest call"—said the Colonel to George as they drove to the homestead—"that's the closest call of my life—and of Beck's!"

Their manner at the Miller home bespoke good news, but not its full extent. They bent over Alice—she was humming.

It was the *Spring Song!*

The Colonel turned an inquiring glance to Mrs. Miller, who nodded significantly. So he spoke gently, and by easy stages, as the pressure was relieved, he told the whole story.

"Now, little woman," he soothed, as he concluded, "your troubles are over. We'll have a pardon at once, and Beck will be home again."

Alice turned to her adviser a grateful eye, in which the light of reason shone again, and wife and mother took him affectionately by the hand.

This was the biggest fee of his life—the gratitude of noble women, released from their bitter thrall in the shadow of THE UPAS TREE.

Beckwith's Confession

BECKWITH'S CONFESSION

The laws of the Roman kings, and the twelve tables of the *decemviri*, were full of cruel punishments; the Porcian law, which exempted all citizens from sentence of death, silently abrogated them all. In this period the republic flourished: under the emperors severe punishments were revived; and then the empire fell. —*Blackstone.*

The knowledge already acquired in some countries, or that may be hereafter attained in others, concerning the surest rules to be observed in criminal judgments, is more interesting to mankind than any other thing in the world. —*Montesquieu.*

THOSE who have read in the newspapers the reports of my trial undoubtedly expect from me a confession that I am a murderer, which would, of course, also be an admission that I am a perjurer. However, many would not censure a man who committed perjury to preserve his life, for our moral codes excuse it in some extreme situations, and it is an everyday offense in cases which strongly appeal to the emotions. Indeed, a man needs merely to be charged with a crime like murder to almost wholly rob him of the weight of his oath. But I have noth-

ing to relate different from that told by me under great stress upon the witness-stand. I have a message to my fellows of much greater importance. It is the last word of an innocent man, about to be executed, who asks you to read his statement patiently.

When a boy I was a diligent member of a debating society. One of the subjects for discussion at the meetings, as a matter of course, was capital punishment. I then believed in the death penalty, but my investigations in preparing for debate convinced me that we have no right to inflict it; that it does not deter others from committing crime, and that it is an injury to society. Since my arrest I have renewed my interest in the subject and have read much upon it, making this study my diversion after my incarceration as I did the study of poisons before, and I use freely in this statement the arguments and data of the books. My conclusions are made public in the hope that when my innocence is established, the jurors and other persons directly concerned in my conviction will take up the mission of blotting the death penalty from the statute books of this State; not only for the sake of those who may be unjustly accused thereafter, but in justice to their families, for whom I earnestly plead. It is their cause that has inspired this brief.

Let it be borne in mind at the outset that the penalty of death is inflicted upon only a certain kind of murderers. In our industrial trades thousands perish by preventable accident; but owners and managers who inflict this loss of life are rarely punished in any way. The man of commerce who adulterates his food product, whereby a human being is fatally poisoned, is not even apprehended. The despised saloonkeeper who does his customer to death by the slow process of constant intoxication is not dealt with as a major criminal, nor the reputable distiller or brewer whose exactions were the first cause. The dispenser of a drug that consumes the will, and finally the man, is in no danger of the gallows. And the crime of the procurer, which destroys happiness and health and hope and soul—which ends in death and renders it welcome —is not punished capitally.

Readers of history cannot fail to perceive that this penalty is disappearing step by step.

We are told that deaths through religious persecution alone averaged eighty thousand a year for a period of six hundred years. Hume quotes Harrison as authority for the statement that in the reign of Henry VIII seventy-two thousand persons were executed for theft and robbery; and in the golden age

of Elizabeth between three and four hundred a year.

It is not so very long since it was a capital offense in England to cut down a cherry tree, as it was to keep company with a gypsy, or to steal a pocket-handkerchief. And even in the year of Grace 1833 a boy nine years old who broke through a pane of glass and stole four cents' worth of paint was convicted of housebreaking, the penalty for this crime then being death! Such is civilization too securely founded on commerce; and such is jurisprudence too exactly reared upon property rights!

This reckless slaughter is no longer possible, and with less sanguinary laws have come, partly through the example and influence of this country, a number of other changes which indicate an advancing civilization.

Trial by jury has been instituted. Hanging in chains has been done away with. The law permitting the dissection of the executed criminal has been repealed. Quartering and breaking on the wheel and burning at the stake have passed into traditions. Human heads are no longer used as decorations. The death penalty for political crimes has been abandoned generally; it has substantially disappeared for infanticide; and the execution of a woman is rare. Public

hangings have been almost wholly abolished. Two degrees of murder have been established by law, one of which in nearly all countries is not capital. A prisoner is now permitted counsel and the right to have his case reviewed by an appellate tribunal. And in some forums the determination of the penalty to be inflicted is left to the jury. In these particulars we have gradually approached, and in others we are rapidly nearing, the abolition of the penalty.

This form of punishment is discriminatory. Because of its severity it is almost never inflicted upon a person of wealth or influence. Once in a generation a college professor kills a person of equal prominence and suffers death; but in general we hang only such as belong to the abjectly miserable portion of humanity. The insignificant deterrent influence of strangling these unfortunates has not even offset the bitterness and malice engendered in the hearts of the surviving relatives, prosecutors and other actors in the tragedies of the courtroom. So far as the death penalty is concerned it would be perfectly safe for any one of means or position to commit murder, provided only the victim be comparatively unknown.

For the reason that I had some little political standing I felt secure from extreme punishment, and in

truth would never have been convicted but for the circumstance that the niece of Mr. Hodgkin was willing and able to spend money with a lavish hand. And it was in my power to escape conviction, on a first trial at all events, had I chosen to avail myself of the influence which even I was able to command. The short of the matter is that the death penalty is too severe to be inflicted upon the rich or the strong. It is one of the cruel inventions of caste—it is a class penalty, just as some of the laws governing it have been class laws. Sheep-stealing was punishable with death when the larceny of an ass or a pig was not. The sheep belonged to the well-to-do, who made the law, while the ass and the pig were owned by the poor.

Most people justify the deliberate taking of a life by the State for the wilful taking of a life by man on the ground that life is sacred and that he who takes it must expect the most severe of all punishments. But if life is sacred enough to be protected from destruction by personal violence, is it not so sacred that we should make it certain that it will not be taken through conspiracy, public prejudice or judicial mistake? Why not go a step further and say that life is so sacred that the State should not take it at all? Among the Quakers, who live by this rule, there are

no murders. Would not the public sentiment cultivated by this doctrine be more potent than the present attempt to accent the sacredness of life by hanging the homicide?

The contemplation of an execution, with the horrors that inseparably accompany it, degrades and brutalizes. It cannot be otherwise, and the State, in the opinion of many, has no right thus to degrade its people unless it is absolutely indisputable that the result sought for cannot be accomplished in any other way. The death penalty renders human life less sacred, also, by inducing the desire for suicide on the part of the criminal, so that every prisoner under sentence of death is guarded with the greatest care, lest he destroy himself and thus set before the community another evidence of disregard for life.

It has struck me that cowardice has had much to do with retaining this form of punishment. In cases of murder we do not inflict the extreme penalty for the crime itself, but for the result. If one discharges a load of buckshot into the breast of another with the distinct intention of murdering him, and it happens that the man survives, the punishment is limited to imprisonment. If the man dies, the penalty may be death. Morally the crime is committed when the gun

is discharged, and to be consistent, the sacredness of human life and all the other arguments that are used to sustain and justify capital punishment demand that the offender be executed. Yet such is not the law. We refuse to abolish this penalty for crime which results in death because we fear that our lives may be less secure. In other countries this fear has come to the surface when it was proposed to abolish the punishment, although the abolition, in every instance, proved the fear to be unfounded.

A penalty so severe as not to be enforceable has a basic objection: it produces unrest to have a constant miscarriage of justice. A wealthy malefactor, an influential murderer, a powerful assassin cannot go free, in a community where paupers and friendless foreigners are hanged, without the people acquiring a contempt for the laws, such as they felt in England during a period of fifteen years when 555 verdicts were rendered for stealing from a dwelling thirty-nine shillings, at a time when it was a capital offense to steal forty shillings. When the amount was changed to five pounds the juries raised their verdicts to four pounds nineteen shillings!

Capital punishment is generally defended upon re-

ligious grounds. The passage upon which those who favor the death penalty rely is that part of the sixth verse of the ninth chapter of Genesis which reads: "Whoso sheddeth man's blood, by man shall his blood be shed." Whether it be true that the words *whoso* and *his* are improper translations for *whatsoever* and *its;* or *shall* a mistranslation for *will;* or that the words *by man* were not in the original or early editions of the Bible—whether they were interpolated by royalty to fit the wants of the State; whether this passage is merely a prediction of what would be likely to follow in the course of human events; whether it can be harmonized with the fact that Cain (whose crime is recorded in an earlier chapter of the same book) was not executed; whether it can be reconciled with the survival of David, Herod, Lamech, Manasseh, Moses and Zimri after they had taken human life; whether the passage is nullified because it does not except homicide that is justifiable, or the shedding of blood in war or by accident—whether all or any of these arguments, so often urged, are valid, I do not care. These are the words of the Old Testament. If we are to derive our authority for capital punishment from that part of the Good Book, we may likewise

there find our authority for slavery, since we are told that "of the heathen that are round about" us we shall buy bondmen. And by these words slavery was defended not very long ago.

We are told in Exodus that "he that curseth his father, or his mother, shall surely be put to death," and that if an ox known by its owner to be vicious escapes from its stall and kills a human being, the ox and "his owner also shall be put to death." To be consistent, then, those who undertake to sustain capital punishment by the sentence from Genesis must uphold hanging for cursing a parent, or even for negligence in the care of a vicious ox; and for thirty-three transgressions, *including witchcraft*, all of which are designated as capital in the Mosaic law. The doctrine of "life for life, eye for eye, tooth for tooth," given us by the Old Testament, is expressly repudiated in the New. In fact, the only sanction for capital punishment which is even claimed to exist in the New Testament is contained in what may be called the "sword" texts—passages which should be interpreted reasonably, reading the word *sword*, as it was written, in a figurative sense. Moreover, we are told that vengeance is the Lord's; we are commanded after the

most solemn fashion not to kill; and, if we adhere to the original Hebrew, as I am informed, expressly enjoined not to kill *man*.

Aside from the fact that no sufficient warrant is to be found in the Scriptures for the infliction of death as a punishment, it would seem clear that the State has the right to deprive a man of his civil rights only. It may lawfully withdraw its protection and its privileges from an offender, but the right of a human being to live is derived from the Creator, and the State cannot justly take it away. Constantine prohibited branding the faces of criminals because he believed it to be a violation of the law of Nature to mar the majesty of the human face. And Nature's first law is life!

No one has the right to take his own life, and therefore no one has the right to consent that others shall take it. It follows that if others acquire such a right it must be wholly on the specious ground of self-defense, or "expediency," as it is generally called.

Now, all logical minds agree on this fundamental proposition: If the death penalty does not deter, or if communities are safe without it, we have no right to retain it: for, under *either* of these conditions, it cannot be justified on the ground of self-defense or expe-

diency. Let us proceed to learn from the facts that *both* these conditions obtain.

First. So far as the penalty is aimed at criminals it would seem to be useless. In general they do not prize life highly. Moreover, criminals who are homicides, as a class, are not to be frightened. They are the bravest of their kind. Many of them in committing murder have had the courage to risk their own lives. While the constant recollection that the State has fixed the extreme punishment for murder may induce a habit of mind averse to committing the crime, it is by no means certain that the same result would not be produced, and to the same degree, if the punishment were deprivation of liberty. And this mental state is disrupted, and every other restraint swept aside, by strong passions which continue to dominate until the crime is consummated. But even such a habit of mind is foreign to the majority of criminals, who are struggling against heredity, environment and poverty.

Second. The United States heads the murder list of the world and is far above its nearest competitor, a condition which will continue as long as we retain

our dramshops, for the saloon is the handmaid of murder. Most of our homicides are committed in a more or less drunken state, when the aggressor has dulled himself to considerations of fear. In the few cases of sudden impulse there is no time for weighing consequences.

Third. Even if a man with murder in his heart were to stop to consider the likelihood of punishment, he would naturally believe that he would be one of the 56 who escape the gallows and not the one in every 57 homicides in the United States who is hanged. In view of the uncertainties of a jury trial he would feel that he probably would be acquitted, and at all events would not be condemned to death. In New York City, during a period of three years, 141 persons were convicted of murder, but of these only two were executed. The old criminal knows these figures in a general way, and if he calculates his chances at all he believes that even if he should be caught and convicted he will be one of the 139 and not one of the two. As long as there is the element of chance or uncertainty about threatened death it loses its terrors. Otherwise we would have few volunteer soldiers and very few in our extra-hazardous employments.

Fourth. The deterrent effect of hanging has always been overestimated. It was the experience of England for generations that men by the thousand would risk the gallows to forge a five-pound note or to steal property of insignificant value. And it was not the fear of extreme punishment, but the invention of the steamship, that broke up piracy.

Fifth. The theory that hanging deters has found its most marked rebuff in public executions. If the fear of such a fate has any effect, the more public the hanging the greater would be its restraining influence. Mr. Roberts, of Bristol, desiring to ascertain the practical value of this theory, talked with 167 criminals condemned to death, and found that all but six had witnessed executions; while one of the Newgate chaplains says that he never had under his charge a single condemned man who had not witnessed an execution.

When hangings were public, it was not uncommon for ten or fifteen thousand people to witness them, and in some instances the crowd numbered more than forty thousand; but it was found that, so far from the sight operating as a deterrent, these occasions were the scenes of ribald jests, profanity, fights and

brawls, in some cases leading to another murder before the crowd dispersed. And during executions of pickpockets, thieves of that class have been caught plying their trade in the assembled crowd. Experience has led us to execute in private, although the press largely perpetuates the evils of the former method. On the other hand, if we could completely suppress publicity, the warning would be negligible, as the terrible punishment would be known to but few.

Here we meet with another difficulty. There must be witnesses of an execution, so that it may be known that the sentence of the law has in fact been carried out. If the attendance of witnesses is permitted to be voluntary, the law might fail for lack of volunteers, and if it is made compulsory, a grave doubt arises that the State ought to compel anyone to witness the strangling of a human being, particularly as such a sight might produce a permanent injury to the health of the spectator. For my part, I believe that in America a law which cannot be executed openly and publicly should not be executed at all.

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Sixth. We are just beginning to learn that mur-

ders are controlled in some degree by a morbid desire to imitate, and that they are committed in cycles bearing no relation to the degree of punishment. In France, one of the Ministers of Justice became satisfied that crime would not decrease as long as so few prisoners sentenced to the guillotine were put to death. Upon this assumption, during a period of twelve months every condemned prisoner but one was beheaded by "the knife of the law," and the next year murders increased nearly fifty per cent. Those who do not wish to go to France for an illustration should watch the papers for a few days after any execution and notice what effect it has upon the number of murders in this city.

Seventh. Montesquieu tells us that it is certainty and not severity which deters—that excessive severity hinders the execution of laws; and Beccaria, that it is not the intensity but the continuance of pain that produces the greatest effect on the mind—principles fully established by the history of the criminal law of England. We need to keep in mind the celebrated petition against punishing with death the crime of forgery, presented to Parliament in 1830 by a thou-

sand bankers located in 214 cities and towns, reciting that the petitioners "find by experience that the infliction of death, or even the possibility of the infliction of death, prevents the prosecution, conviction and punishment of the criminal, and thus endangers the property which it is intended to protect." After the execution of Fauntleroy, the lawyers of England sent up a similar petition in which they predicted that if the Crown were to cease punishing forgery by death, the crime would become less frequent. And when hanging for that offense was abolished the crime became rare.

So with the rest of the 160 crimes which Blackstone tells us were formerly punishable in his country by instant death. And so with murder. The experiment of abolishing this penalty for the crime has been tried without bad results in all parts of the globe, in a great number of instances, at different periods, and under diverse conditions. Where the abandonment of the penalty has been immediately followed by an increase in the number of homicides, investigation has shown that the offenders at the time the crimes were committed had not learned that the change had taken place. It is established, also, that the restoration of

capital punishment where it has once been abrogated has not decreased the number of murders.

It may be added that substantially all the arguments now advanced for the retention of the death penalty for homicide were urged with vehemence in the endeavor to prevent its abolition for offenses against the laws protecting property, and coupled with these arguments were solemn predictions of dire calamity in the event of a change.

Eighth. We learn from experience that when executions are most numerous, convictions are most difficult, and, on the other hand, when executions are least frequent, convictions are most readily obtained, so that it is quite impossible to combine certainty of punishment with the death penalty.

Ninth. For some persons, the penalty of death has a certain fascination arising out of vainglory, a characteristic weakness of criminals. Many of them would readily choose the scaffold, with its suggestion of heroism and martyrdom, rather than the penitentiary, which has no other meaning than disgrace.

Tenth. During cycles of corruption in other lands capital punishment has been a menace to liberty, especially with respect to that indefinite crime we call by the name of *treason*—still a crime in the United States. Had the venerated signers of the Declaration of Independence been men of less heroic character, and had they been deterred by this penalty, one of the best pages of history might never have been written. And there may come times of great popular excitement during which our jury system will be found wanting. Who can say that the gibbet will then be a respecter of justice?

Eleventh. Life is secure without the infliction of such a penalty:

1. Capital punishment was almost unknown in the Grecian Republics; it was practically abolished for 250 years in Rome.

2. In Russia, under Elizabeth and Catherine II, the right to punish capitally rested solely in the Crown and was limited to grave crimes against the State. During the reign of these monarchs, when the humane spirit of the law was observed in good faith, Russia was notable for its few murders.

3. From 1869 to 1878 there were but three execu-

tions each in Norway and Sweden; from 1870 to 1880 but one in Denmark; and the people were safe.

4. Life is as secure in Great Britain now, when they hang only twenty-four a year, as it was when they hanged two thousand a year. At one time executions in London were so frequent that it was called "the city of the gibbet."

5. For more than a year after the Revolution of 1830 France was without an execution, and there was no increase in criminal offenses.

6. Although provided for by law, the death penalty has not been inflicted in Finland since 1824; in Belgium (the most densely populated country in Europe), since 1863, when the present King, Leopold II, ascended the throne; in the State of Kansas, since 1872. In these jurisdictions the security of life and property is well established.

7. The abolition of capital punishment was tried with success even in the days of ancient Egypt.

8. For the seven years ending in 1811, Bombay, with a population at that time of 200,000, was without the death penalty, and, as Sir James Mackintosh (the Recorder during this period) declares, without any increase in crime.

9. Beginning with the year 1786, Tuscany has

three times done away with capital punishment, and the people lived in peace and security. In the intervals between these periods there has been practical abolition. No execution took place in that country for thirty-four consecutive years. During this time Tuscany was filled with the offscourings of all Italy, and yet homicides were less numerous than they were during a like period immediately before as well as afterward. Murders in Tuscany have always been fewer in proportion to population than in neighboring Sicily and Naples, where this punishment is inflicted. Benjamin Rush says that there were but five murders in twenty years in Tuscany, while in Rome, where capital punishment was retained, there were sixty in three months; and the manners, principles and religion of the two communities are almost exactly the same.

10. The State of Iowa abolished the death penalty in 1872. Without any apparent reason, it was restored in 1878, but no one has been hanged there since. The number of murders per year did not increase during abolition.

11. Several of the political subdivisions of Germany have existed for over a generation in perfect safety with the death penalty discarded by law; the

Republic of San Marino, since 1859; Roumania, since 1864; Portugal, since 1867, and without an execution since 1846; Holland, since 1870, and without an execution since 1860; the Republic of Costa Rica (by constitution), since 1871.

12. In Switzerland the punishment was totally abrogated by law in 1874. Five years later the Cantons secured the right to re-establish it, and seven of them did so, but without enforcing the law. In the remaining fifteen Cantons the statute of 1874 is still in force. The National Council investigated the question and reported that there was no difference in the number of murders whether or not the death penalty was provided by law.

13. The State of Michigan abolished the death penalty for murder in 1846. Since then the population of the State has greatly increased, but the number of murders has not. Rhode Island did away with it in 1852. In proportion of murders to population that State has always compared favorably with its neighbors, Massachusetts and Connecticut, where the punishment is retained.

14. Wisconsin discarded this punishment in 1853, without decreasing the safety of the inhabitants.

15. In Maine there have been but two executions

since 1837, and there has been no insecurity of the citizens of that commonwealth. The penalty existed as a matter of law, under restrictions amounting almost to nullification, until 1876, when it was abolished. It was restored in 1883, but there is every reason to believe that the General Assembly of the present year will again abrogate it.*

But it is said by sanguinary supporters of the penalty that its retention is necessary to hold in check the criminal classes in the great urban centers, and that a metropolis like New York City is not safe without it. I reply that many large communities have lived in security without executions—Bombay, Amsterdam, Brussels, Warsaw, Moscow, Odessa, Naples, Milan, Rome, Marseilles, Lyons, Lisbon. It is objected that these cities are not of the first magnitude. I reply: St. Petersburg, Paris. It is urged that these are not in America, where murder is the most frequent. I reply: Milwaukee, Detroit, Providence. It is then urged that while these places are large, they are small compared with New York City. I reply: For two years, commencing in 1860, capital punish-

*With like results the penalty was finally abolished by Maine in 1887, as predicted in the text; by Italy in 1889; Norway in 1902; Kansas in 1907; Venezuela (by Constitution) in 1909; Minnesota in 1911.—ED.

ment was practically abolished in the State of New York (including, of course, New York City), without increase in crime or decrease of security.

What is left to be said? Only this: that these conditions are experimental; that they have not continued for a sufficient length of time to be the basis of a conclusion. If this is an argument and not an excuse, let me hoist the objectors with their own petard. I will make a concession. Let us postpone action for a generation longer. Let all agree that if these conditions should still exist—*and they surely will*—at that time, we will put an end to this pernicious punishment.

In passing, it has been noted that lynchings in this country are as common in those States where the penalty exists as in those where it does not; but it has been shown that in the sections where there are the most frequent executions the greatest number of lynchings take place.

So much for expediency.

In any given instance it will not do to brush all argument aside with the comment, sometimes heard: "Served him right! Hanging was too good for him!" Such sentiments proclaim the savage. Revenge is the lowest of our characteristics. This stand-

ard has been abandoned even by the most violent and drastic penologists. Punishment by the State, we are taught, has but three objects: to restore to the injured, to reform the criminal, to prevent a repetition of the crime. (The idea of expediency, or example to others, is secondary.) In murder it is impossible to restore to the injured. The death penalty prevents the reformation of the criminal, but it does effectively stop repetition. If, however, repetition can be prevented by imprisonment, hanging is without an apology. The modern prison is amply sufficient, whatever may have been true in former days. If we can restrain the homicidal madman, we ought to be able to control the ordinary murderer.

The main argument against capital punishment—certainly the one which most appeals to me—is now in order. From the time of Calvary to the present day innocent men have been put to death. We are told by Mittermaier of guiltless persons executed in Italy, France and Germany. He speaks of a condemned man, afterwards proved innocent, concerning whose case Baron Martin, the trial judge, said: "The evidence was about the clearest and most direct that, after a long course of experience in the administration of criminal justice, I have ever known."

Chief Baron Kelly says that from 1802 to 1840 he traced twenty-two men who were wrongly convicted of murder in England, seven of whom were hanged; Mackintosh (referred to before), a conservative man, says that in the same country, taking a long period of time, one innocent man is hanged in every three years.

I venture the assertion that the thousands who were put to death (at the stake and otherwise) for witchcraft were not guilty of the crime with which they were charged.

Again, there is no way of ascertaining to a certainty the guilt of anyone charged with murder.

Felonious intent is the essence of the crime. The jury must determine, then, in each instance, the state of mind of the accused. In many cases this is a difficult task, and in not a few the verdict is a mere guess.

A confession of guilt, if voluntary, would seem to be strong evidence; but, by way of illustrating a general rule, it will be remembered that a number of men confessed to the murder of Nathan in this city, all of whom were innocent. In some cases of acknowledged murder the supposed victim has turned out to

be still alive, and in at least one instance interrupted the trial.

Whatever may be the testimony of a witness, it cannot be certain to a demonstration, in most cases, that he is not committing perjury or is not mistaken.

Nor is there any certainty about the action of a jury. On the same evidence one jury would convict and another acquit.

And again, even in those cases where the murder is proved to the satisfaction of the most exact mind, there is no way of determining whether the culprit was sane when he committed the act. If insanity is present, the very nature of the disease often leads the offender to conceal its symptoms.

If a man of normal mind should commit murder and be convicted, it cannot be known absolutely whether at the time of his hanging he is still mentally sound. Yet our nature revolts at the thought of hanging a man who is insane, and the law does not permit his execution.

To the hanging of women there is a special objection. More than one instance is related of an unborn child being destroyed at the same time with the mother. Such a result may be avoided, but the objection illus-

trates what all these facts accentuate, the difficulties that surround the infliction of this penalty. Throughout history man has been endeavoring to devise some decent method of putting a brother to death in cold blood. Hanging is preferred to other methods because it does not literally shed blood; but a bungling hangman or a faulty rope may make it the most revolting. Untried methods are not adopted because of their uncertainty.

What Nature has rendered so difficult man should accept as forbidden.

THE END

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